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TRANSCRIPT OF RECORD

Supreme Court of the United States

OCTOBER TERM, 1939

No. 195

**ISIAH (IZELL) CHAMBERS, JACK WILLIAMSON,
CHARLIE DAVIS AND WALTER WOODWARD
(WOODARD), PETITIONERS,**

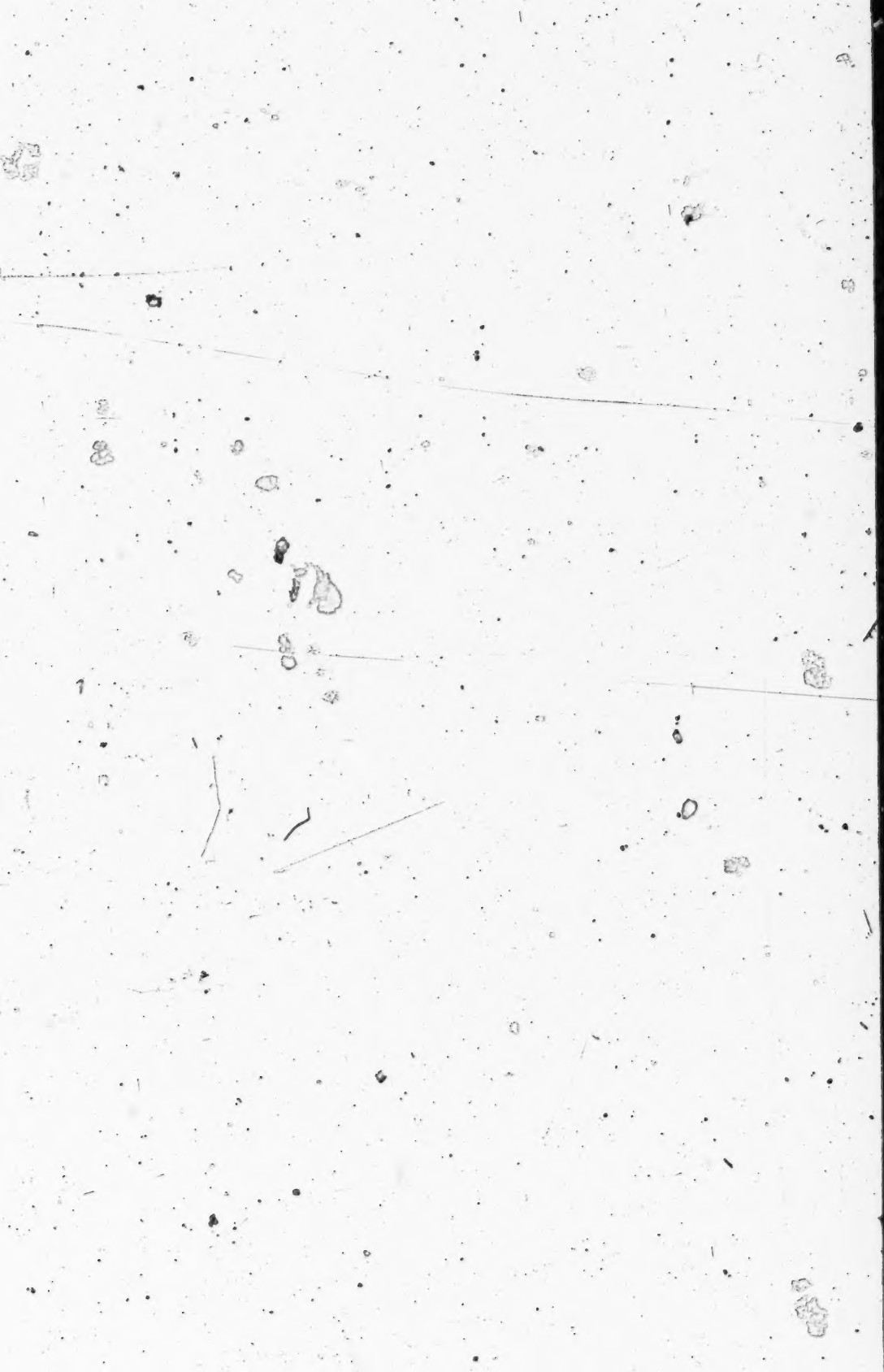
vs.

THE STATE OF FLORIDA

**ON WRIT OF CERTIORARI TO THE SUPREME COURT OF THE STATE
OF FLORIDA**

PETITION FOR CERTIORARI FILED JULY 11, 1939.

CERTIORARI GRANTED OCTOBER 23, 1939.



SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1930

No. 195

ISIAH (IZELL) CHAMBERS, JACK WILLIAMSON,
CHARLIE DAVIS AND WALTER WOODWARD
(WOODARD), PETITIONERS,

vs.

THE STATE OF FLORIDA

ON WRIT OF CERTIORARI TO THE SUPREME COURT OF THE STATE
OF FLORIDA

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[fol. A]

[Caption omitted]

[fol. 1]

**IN CIRCUIT COURT OF THE TWENTY-SECOND
JUDICIAL CIRCUIT OF FLORIDA, IN AND FOR
BROWARD COUNTY**

**ISIAH (IZELL) CHAMBERS, JACK WILLIAMSON, CHARLIE DAVIS
and WALTER WOODWARD (WOODARD), Petitioners,**

vs.

THE STATE OF FLORIDA, Defendant in Error

**'PETITIONERS' ASSIGNMENT OF ERRORS ON WRIT OF CORAM
NOBIS—Filed Feb. 16, 1935**

Come Now the petitioners in the above cause and say there is error in the judgments and sentences of this Honorable Court heretofore entered in this cause against these petitioners; that if the Court had known the facts as to how the confessions and pleas of guilty were obtained from these petitioners, said judgments and sentences never would have been entered by the Court. And for more specific assignments of error, these petitioners say:

1. That the confessions and pleas filed at the trial of these petitioners and which form the basis of the judgments and sentences herein complained of were not in fact freely and voluntarily made by these petitioners.

2. That the confessions and pleas filed at the trial of these petitioners and which formed the basis of the judgments and sentences herein complained of were in fact, obtained [fol. 2] from these petitioners by force, coercion, fear of personal violence and under duress.

Wherefore, petitioners pray that the said judgments and sentences may be vacated and set aside and that these petitioners be placed back in the same condition as they were before such confessions and pleas were entered.

S. D. McGill, Attorneys for Petitioners.

IN CIRCUIT COURT OF BROWARD COUNTY

[Title omitted]

DEFENDANT IN ERROR'S TRAVERSE BY PLEAS AND JOINDER OF
ISSUE TO PETITIONERS' ASSIGNMENT OF ERRORS—Filed Feb.
16, 1935

[fol. 3] Comes now the State of Florida, Defendant in Error as aforesaid, by and through Louis F. Maire, State Attorney in and for the above styled Circuit, and joins issue upon the allegations of fact in Petitioners' Assignment of Errors, and to each paragraph thereof separately and severally, and says that it is not guilty, and further, specifically says:

(1) Defendant in Error denies the averments and matters in paragraph Two (2), Assignment of Error No. One (1), of Petitioners' Assignment of Error, and says that it is not guilty, and joins issue upon same.

(2) Defendant in Error denies the averments and matters in paragraph Three (3), Assignment of Error No. Two (2), of Petitioners' Assignment of Errors, and says that it is not guilty, and joins issue upon same.

To All of Which the said Defendant in Error puts itself upon the country.

Louis F. Maire, State Attorney as aforesaid.

Duly sworn to by Louis F. Maire. Jurat omitted in printing.

[fol. 4] IN CIRCUIT COURT OF BROWARD COUNTY

[Title omitted]

PETITION FOR CHANGE OF VENUE—Filed June 29, 1936

Come Now the petitioners Isaiah (Izell) Chambers, Jack Williamson, Charlie Davis and Walter Woodward (Woodard), in the above named cause and sheweth to this Honorable Court as follows:

[fol. 5] 1. That on the 23rd day of May A. D. 1933, joint indictments were found against these petitioners by the Grand Jury of Broward County, Florida, charging them with murder in the first degree and in June 1933, they

were sentenced to death by the Circuit Judge of Broward County Florida, said judgments and sentences being based upon forced confessions and pleas. From the forced and involuntary confessions upon which sentences of death were passed, various and sundry appeals were made to the Supreme Court of Florida, which resulted in three reversals of the judgments and decrees of this court. That on February 21, 1935, the question as to whether said confessions of guilt were made freely and voluntarily, was decided by a jury which found against your petitioners. That upon said verdict of the jury, this court rendered a final judgment sustaining the verdict of the jury; that upon said final judgment an appeal was again taken to the Supreme Court of Florida, and on April 20, 1936, that court again reversed this court and remanded it back for a new trial. That the causes now before this court to be tried upon the indictment or issues are based upon petition for writ of error coram nobis but these petitioners say they fear they will not receive a fair and impartial trial in the above named court where this cause is now pending on account of your petitioners being so Odious to the inhabitants of Broward County Florida, that a fair trial cannot be had; that as heretofore stated, great interest was manifested at all of their trials in this court in this case and these petitioners believe and so state the fact to be that it will be impracticable for them to obtain a qualified jury for the trial of their case now pending in this Court; that said condition is due to the fact that they are persons of African descent under sentences of death for the murder of a white person [fol. 6] and the newspapers and others in Broward County Florida have found a fertile field in which to create the condition herein complained of, particularly do your petitioners mention the Fort Lauderdale Daily News, which has repeatedly published inflammatory articles in regard to said crime of which your petitioners are convicted and thereby have aroused great prejudice and hatred among the citizens of Broward County against your petitioners.

2. Your petitioners further represent that the odium of your petitioners endured by the citizens of Broward County is further manifested by your Honor in May 1933, during the arraignment and pleas of these petitioners, when your Honor publicly from the bench addressed a crowd of Broward County citizens who were present in the Circuit Court

room to witness the trial of these petitioners on the indictments herein found against them as follows:

"The court wishes to express its appreciation for the orderly procedure today, to you, Citizens of Pompano and other sections of the County. You have conducted yourselves as properly as could be expected in a case of this kind and I appreciate it."

3. Your petitioners further showeth unto this Honorable Court that various efforts have been made to obtain persons in Broward County to sign affidavits in support of this petition; that various persons have been contacted, all of whom are unanimous in the statement that no fair trial can possibly be had in this cause in Broward County, yet all of such persons are afraid to sign any such affidavits and for that reason no affidavits accompany this petition.

[fol. 7] Your Petitioners Therefore Pray, that the venue in said cause be changed from the County of Broward to the County of Dade in the State of Florida, and that said cause be set for trial at the present term of the Circuit Court in the said County of Dade, or some other county.

And Your Petitioners Will Ever Pray.

Isaiah Chambers (Izell Chambers), Jack Williamson,
C. H. Davis (Charlie Davis), Walter Woodard
(Walter Woodward).

Duly sworn to by Isaiah Chambers et al. Jurat omitted in printing.

I, S. D. McGill, of counsel for the petitioners, do hereby certify that the above Petition is made in good faith.

S. D. McGill, Counsel for Petitioners.

[fol. 8] IN CIRCUIT COURT FOR COUNTY OF BROWARD

[Title omitted]

ORDER FOR CHANGE OF VENUE—Filed June 29, 1936

This cause came on to be heard upon the Petition for Change of Venue and stipulation of counsel for the State and Petitioners, and upon consideration thereof,

It is Ordered, and Adjudged, that the said Petition for Change of Venue be, and the same is, hereby granted, and the said cause transferred to Palm Beach County, Florida.

It is Further Ordered that the Clerk of this Court immediately enter the proceedings of record in this cause and transmit all the original papers filed in the case with a certified copy of the entries of Record relating to the case of the Clerk of the Circuit Court of the County of Palm Beach, State of Florida, and that said Clerk retain a copy of all the papers transmitted.

Done and Ordered, this 29th day of June, A. D. 1936.

George W. Tedder, Judge.

[fol. 9] IN CIRCUIT COURT FOR COUNTY OF BROWARD

[Title omitted]

ORDER FOR CHANGE OF VENUE AND DIRECTING SHERIFF TO
CONVEY THE PRISONERS TO PALM BEACH COUNTY, FLORIDA
—Filed June 29, 1936

This cause came on to be heard upon the Petition for Change of Venue and Stipulation by counsel for the State and Petitioners, agreeing to the change of venue, and the Court being of the opinion upon the record so made, that the Change of Venue should be granted.

It is thereupon Ordered, and Adjudged, that the Petition for Change of Venue be and the same is hereby granted, and the said cause be, and the same is, hereby transferred to Palm Beach County Florida for trial upon the issues made and the determination of said cause.

It is further Ordered and Adjudged that Walter R. Clark, [fol. 10] as Sheriff of the County of Broward, State of Florida be and he is hereby commanded to safely convey the said prisoners to the jail of the County of Palm Beach, State of Florida where trial is to be had, there to be safely kept by the Jailer thereof, until discharged by due course of Law, or transferred by an order of said Court, the said defendants not having entered into a recognizance bond.

Done and Ordered at Ft. Lauderdale, Broward County, Florida, this 29th, day of June, A. D. 1936.

George W. Tedder, Judge.

Endorsed on Back Thereon: Received this Order on the 29th day of June A. D. 1936 and executed same on the 29th day of June A. D. 1936 by delivering the within named Izell Chambers, Jack Williamson, Charley Davis and Walter Woodward to the Sheriff of Palm Beach County, Florida,

W. H. Lawrence, and by delivering a true copy of this original writ to him, at the same time exhibiting this the original to him and explaining the contents hereof.

| | |
|--------------------|-------------|
| Copy | .35 |
| Service | 1.00 |
| Return | .25 |
| Total | 1.60 |

Walter R. Clark, Sheriff of Broward County, Florida,
by Robt. H. Clark, Deputy Sheriff.

[Record from Broward County filed in Circuit Court of
Palm Beach County, July 13, 1936.]

[fol. 11] IN CIRCUIT COURT OF PALM BEACH COUNTY

Minute Entries of Trial

Monday, October 12th, A. D. 1936.

The Court convened at 9:30 A. M. Monday, October 12th, A. D. 1936 for the purpose of trying the issue in the case of Isiah (Izell) Chambers, Jack Williamson, Charlie Davis and Walter Woodward (Woodard), Petitioners versus the State of Florida, Respondent, and for the determination of a question of fact, to be submitted to a Jury. Present: Honorable C. E. Chillingworth, Circuit Judge, presiding; the State Attorney of the Fifteenth Judicial Circuit of Florida, viz: Hon. J. W. Salisbury, also the Sheriff, W. H. Lawrence, together with his deputies, T. P. Riggs, H. E. Motter, H. L. Dyer, C. B. Bowen, A. E. Budd, J. T. Lawrence, and J. M. Tapscott, and Geo. O. Butler, Clerk.

The Sheriff having executed the Venires for Jurors for thirty four (34) and eighteen (18) Jurors respectively; returnable at 9:30 A. M. this date by Order of the Court issued on September 21st, 1936, and a Venire for sixty-five (65) Jurors, issued on October 2nd, A. D. 1936, returned the following as having been duly served, to-wit:

REGULAR VENIRE

Frank G. Lang, Jr.
Robt. G. Bostwick, Jr.
John H. Meerdink
Robt. R. Neil

C. A. Johnson
W. M. Waters
Manley P. Caldwell
F. A. Rowley

Hugh M. Brown
C. C. Lindsay
John J. Baker
Chas. R. Barsfield
and Charles M.
Morris

[fol. 12] The following were reported as "Not to be Found" in Palm Beach County, Florida:

Clarence Sheen
D. L. Crosby

W. D. Johnson
C. D. Hartman

Jack O. Malley

On the Special Venire issued on September 21st, 1936, for thirty four (34) Jurors, the following were returned as having been duly served:

SPECIAL VENIRE

Nick J. Balls
G. M. Culver
Glenn A. Morgan
William Schroeder
Joe Griffin
L. E. DeLoe
J. J. Hutson
Lester McGehee

R. A. Pumphrey
R. L. Stubbs
E. L. Green
G. W. Bennett
C. H. Armstrong
Thos. J. Grier
Thos. C. Manning
Fred M. Burbach

James C. Ohmer
L. H. Pitts
J. E. Smith
W. J. Blankenship
E. F. Gollattscheek
James P. Riley
W. H. Told
Fred Depew and
L. I. Griffin

The following were reported as "Not to be found" in Palm Beach County, Florida:

Cornelius Waalewyn

S. L. Edleman

J. E. West
(deceased)

J. J. Anderson
Benj. H. Holmes

Oscar G. Connor
T. O. Martin

E. L. Cobb and
Harry Mullen

The following is the return on the Special Venire issued on October 2nd, 1936, for sixty five (65) Jurors; returnable at this time, to-wit:

SPECIAL VENIRE

F. L. Cory
L. L. Griffin
W. E. Gladson
[fol. 13]

J. E. Hardwick, Sr.
Rober G. Atkins
F. A. Reynolds
Geo. King, Jr.
A. C. Knesley
C. A. Ford
David Miller
H. W. Cole
J. H. Witherspoon
Roy Taylor
S. M. Drake
Truman P. Matthews
W. F. Doolittle

G. W. Sands
Albert Newell
J. B. Reynolds

Jack Deadwyler
J. A. Bass
John Nowak
Wm. King
Emmett F. Hill
E. A. Eakin
James M. Dillard
Kenneth Hanbury
J. R. Colliver
J. M. Wilson
E. A. Schurlein
H. Simons
W. B. Harman

Ira Webb
C. H. Holden
H. L. Brown, Jr.

Ray R. Thompson
O. B. Braley
M. T. Marko
Homer A. Barr
Harmon Blue
Lewis Auërbach
Clarence C. Coston
Ernest W. Flanders
Wm. G. McCandless
A. E. McMillan
Roscoe Merritt
Harry L. Matson
and R. P. Travis

The following were reported as "Not to be found" in Palm Beach County, Florida:

| | | |
|-----------------|-------------------------------|----------------------------|
| Carl J. Hughes | Lewis H. Shipman | W. G. McCullen |
| C. A. Grantham | B. B. Armstrong (deceased) | R. C. Smith |
| L. C. Markham | E. J. Kelley | H. M. Thaxton |
| Clyde B. Chase | William Bethel | W. R. Dunber (deceased) |
| H. H. Gilbert | L. M. Ard | A. L. Browne |
| Frank Hoofnagle | C. T. Langford | |

For reasons satisfactory to the Court the following persons were excused for the Term:

| | | |
|----------------------------------|---------------------|--|
| C. A. Johnson | J. E. Smith | Ira Webb |
| W. M. Waters | E. F. Gollattscheek | H. L. Brown, Jr. |
| Manley P. Caldwell (Attorney) | J. H. Witherspoon | M. T. Marko |
| John J. Baker (Illness) | S. M. Drake | Homer A. Barr |
| [fol. 14] | | |
| J. J. Hutson | Wm. King | Clarence C. Coston and Roscoe Merritt |
| G. W. Bennett | J. R. Colliver | |
| L. H. Pitts | W. B. Harman | |

The following failed to answer when their names were called:

| | | |
|------------------|----------------|----------------------------------|
| John H. Meerdink | G. M. Culver | R. A. Pumphrey |
| F. A. Rowley | Lester McGehee | Fred Depew and F. A. Reynolds |

The remaining Jurors were sworn upon Voir Dire and qualified by the Court.

G. M. Culver answered late and was excused.

The Court called Criminal Case Styled as follows:

Crim. #1395

ISIAH (IZELL) CHAMBERS, JACK WILLIAMSON, CHARLIE DAVIS
AND WALTER WOODWARD (WOODARD), Petitioners,

versus

THE STATE OF FLORIDA, Respondent

Counsel for the Petitioners and the State of Florida announced that they were ready for trial. All this time Messrs. Phil O'Connell and Louis F. Maire, were duly sworn by the Court as Assistant State Attorneys.

Now come the Petitioners, Isiah (Izell) Chambers, Jack Williamson, Charlie Davis, and Walter Woodward (Woodard) in their own proper persons and by Sidney J. Catts, Jr., and John Ziegler, Esquires, appointed by the Court to their defense; also the State of Florida, by Hon. J. W. Salisbury, Hon. Phil O'Connell, and Hon. Louis F. Maire. Come also the following Jurors duly qualified and duly [fol. 15] sworn to try the case, to-wit:

C. C. Lindsay
Chas. R. Barfield
Charles M. Morris
R. L. Stubbs

E. L. Green
C. H. Armstrong
Fred M. Burbach
James C. Ohmer

Wm. J. Blankenship
James P. Riley
F. L. Cory and
Joe Griffin

The Court placed the Jury in charge of the Sheriff and ordered a brief recess.

The Jury was recalled and at the request of counsel, the witnesses were placed under the rule by the Court and were excluded from the Court Room.

The counsel for Petitioners and the State made opening statement to the Jury.

Jack Williamson, a petitioner was duly sworn and testified on his own behalf.

With Jack Williamson on the stand the Court ordered a recess until 2:00 o'clock P. M. this date.

At 2:00 o'clock P. M. this date, the Court reconvened for the purpose of resuming the testimony in Criminal Case No. 1395—Isiah (Izell) Chambers, Jack Williamson, Charlie Davis and Walter Woodward (Woodard), Petitioners vs. The State of Florida, Respondent, the Honorable C. E. Chillingworth presiding as Circuit Judge. The petitioners being present in person and accompanied by their counsel; also the Counsel of the State of Florida, the Jurors empanelled to try the issue, and the officers of the Court. The trial was continued by the testimony of Jack Williamson, Petitioner, recalled to the Witness Box.

Walter Woodward (Woodard) a petitioner was duly sworn and testified on his own behalf.

A short recess was ordered, Jury retiring in charge of the Sheriff.

[fol. 16] The Jury was recalled, all parties being present the testimony was resumed, by the recall of Walter Woodward (Woodard) to the Box.

Charlie Davis, one of the petitioners was sworn and testified on his own behalf.

At the conclusion of the testimony of Charlie Davis, the Court ordered a recess until 9:00 A. M. Tuesday, October 13th, 1936, with instructions to the Jury to remain together in charge of the Sheriff, and not to discuss this case among themselves or with anyone whomsoever.

Attest: Geo. O. Butler, Clerk Circuit Court.

Tuesday, October 13th, A. D. 1936.

At 9:00 o'clock A. M. Tuesday, October 13th, A. D. 1936, the Court convened.

Present: Hon. C. E. Chillingworth, the Circuit Judge; Hon. W. Hiram Lawrence, Sheriff, and his Deputies: T. P. Riggs, H. E. Motter, H. L. Dyer, C. B. Bowen, A. E. Budd, J. T. Lawrence, and J. M. Tapscott, and Geo. O. Butler, Clerk.

The Petitioners: Isiah (Izell) Chambers, Charlie Davis, Jack Williamson and Walter Woodward (Woodard) being present in open Court and accompanied by their counsel, Messrs. Sidney J. Catts, Jr., and John Ziegler, as also the Counsel for the State, and the Jurors empanelled to try the case, the trial was resumed with the testimony of Charlie Davis, one of the Petitioners, who was recalled, and testified on his own behalf.

Isiah (Izell) Chambers, duly sworn as a petitioner and testified on his own behalf.

Charles H. Gordon, Deputy Clerk of the Circuit Court of [fol. 17] Broward County, Florida, was duly sworn and testified on behalf of the petitioners.

The petitioners rest.

The following witnesses were duly sworn and testified on behalf of the State;

Elbert B. Griffis, James Little; Frank Manuel; Willie Henderson; James (alias Prince) Douglas, from Raiford; Leonard Jackson; Mack Little.

The Court ordered a recess until 1:45 P. M. October 13th, 1936.

At 1:45 P. M. this date, the Court reconvened, Judge C. E. Chillingworth, presiding and the following present in open Court: Isiah (Izell) Chambers, Jack Williamson, Charlie Davis, and Walter Woodward (Woodard), the petitioners, accompanied by their counsel, Messrs. Sidney J. Catts, Jr., and John Ziegler; the Attorneys for the State of

Florida; the Jury empanelled to try the issue, and the officers of the Court.

The following witnesses previously sworn, testified on behalf of respondent, the State of Florida: Eddie Hamilton; B. B. Johnson; W. Ford; W. C. Mather (Attorney at Law); Charles H. Gordon; Tom J. Collins; J. N. Cain; W. H. Blount; John Darsey; J. W. Cbleman (Court Reporter of Broward County, Florida); Virgil Wright; W. C. Goodrich and R. C. Helton.

The Court recessed until 9:00 o'clock A. M. Wednesday, October 14th, A. D. 1936, with the Jury in charge of the Sheriff, and instructions to them to remain together and not to discuss this case among themselves or with anyone whomsoever.

Attest: Geo. O. Butler, Clerk Circuit Court.

[fol. 18]

Wednesday, October 14th, A. D. 1936.

The Court convened pursuant to recess at 9:00 o'clock A. M. Wednesday, October 14, A. D. 1936. Present Honorable C. E. Chillingworth, Circuit Judge, presiding; the Petitioners, Isiah (Izell) Chambers, Jack Williamson, Charlie Davis and Walter Woodward (Woodard) in person and accompanied by their counsel, Messrs. Sidney J. Catts, Jr., and John Ziegler; the attorneys for the State of Florida; the Jury empanelled to try the issues; Geo. O. Butler, Clerk, and W. Hiram Lawrence, Sheriff, and his Deputies; T. P. Riggs, H. E. Motter, H. L. Dyer, C. B. Bowen, A. E. Budd, J. T. Lawrence, and J. M. Tapscott.

The trial was resumed with the testimony of the following witnesses who were sworn and testified on behalf of the Respondent, State of Florida: Robert L. Clark; Louis F. Maire, (State Attorney for Broward County, Florida); Walter R. Clark (Sheriff of Broward County, Florida) and A. D. Marshall.

The Respondent rests.

The Court recessed until 1:45 P. M. this date.

At 1:45 P. M. this date, the Court with Hon. C. E. Chillingworth, Circuit Judge, presiding, resumed the trial of the foregoing cause, all of the Petitioners, Counsel and Court officials being present in open Court.

The Jury retired.

Hon. Sidney J. Catts, Jr., counsel for the Petitioners moved the Court for a directed Verdict for his clients; this motion was denied by the Court who directed that the Jury be recalled. The Jury returned to Court Room.

Counsel for the Petitioners and the Respondent argued the case to the Jury.

[fol. 19] The Court read a written charge to the Jury on the law of the case, and the Jury having heard the evidence, the argument of counsel and the Charge of the Court, retired to consider of the Verdict.

On coming into the Court the Jury returned the following Verdict which the Court received and ordered recorded:

IN CIRCUIT COURT OF THE FIFTEENTH JUDICIAL CIRCUIT OF
FLORIDA IN AND FOR PALM BEACH COUNTY

ISIAH (IZELL) CHAMBERS, JACK WILLIAMSON, CHARLIE DAVIS
and WALTER WOODWARD (WOODARD), Petitioners,

VS.

THE STATE OF FLORIDA, Respondent

VERDICT

We, the Jury, find against the petitioners, Isiah Chambers, Jack Williamson, Charlie Davis and Walter Woodward, and in favor of the State of Florida.

So say we all.

F. L. Cory, Foreman.

The Court ordered the Verdict recorded.

The Court informed counsel that he would consider any further motions at some date to be fixed in the week beginning on the 26th day of October, A. D. 1936.

The Jury was excused with the thanks of the Court.

No further business pending in open Court the Judge ordered a recess.

Attest: Geo. O. Butler, Clerk Circuit Court.

[fol. 20] On the 19th day of January, 1937, after the adjournment of said term, by virtue of a special order to that effect entered on December 2nd, 1936, the petitioners made

up and tendered their Bill of Exceptions, which, after due notice was settled and signed by the Judge, which Bill of Exceptions, Assignment of Errors and Stipulation or Notice is in the words and figures following, to-wit:

[fol. 21] IN CIRCUIT COURT OF THE FIFTEENTH JUDICIAL CIRCUIT OF FLORIDA IN AND FOR PALM BEACH COUNTY

Criminal #1395

ISIAH (IZELL) CHAMBERS, JACK WILLIAMSON, CHARLIE DAVIS
and WALTER WOODWARD (WOODARD), Petitioners,

vs.

THE STATE OF FLORIDA, Defendant

Bill of Exceptions

CERTIFICATE OF JUDGE

I, C. E. Chillingworth, Judge of the Circuit Court of the Fifteenth Judicial Circuit of the State of Florida in and for Palm Beach County, do hereby certify that during the progress of the cause pending in said Court wherein Isiah (Izell) Chambers, Jack Williamson, Charlie Davis and Walter Woodward (Woodard) were petitioners and the State of Florida was defendant the following proceedings were had viz:

On the 12th day of October A. D. 1938, during a term of said Court the issues joined between said parties said cause came on to be tried before a jury and the said parties having concluded and submitted their evidence, the Court thereupon instructed the jury and the said cause having been submitted to the jury by the Court under its charges and the jury having returned a verdict against the petitioners and in favor of the defendant.

[fol. 22]

[Title omitted]

Transcript of testimony taken before Hon. C. E. Chillingworth, Judge of the above styled Court, and a jury of twelve men, at West Palm Beach, Palm Beach County, Florida, on Monday, October 12, A. D. 1936, at 9:30 o'clock A. M., when the following proceedings were had:

APPEARANCES

J. W. Salisbury, Esq., Lewis F. Maire, Esq. and Phil O'Connell, Esq., Attorneys for the State.

Sidney Catts, Jr., Esq., John Ziegler, Esq. and Attorney R. L. McGill, Attorneys for Petitioners.

Mr. Catts: The petitioners in error, and each of them, except to the Court's direction to the Clerk to administer the oath to the jury in the following form: "You and each of you do solemnly swear that you will well and truly try this issue wherein Izell Chambers, Jack Williamson, Charlie Davis and Walter Woodward are petitioners and the State of Florida is respondent, and a true verdict give according to the evidence. So help you God."

The Court: The Court offers to have administered to the jury either the above oath or the oath of "true deliverance make between the petitioners and the State of Florida," as counsel for petitioners may request.

[fol. 23] Mr. Catts: Counsel for petitioners decline to request either.

(The civil oath was administered.)

Jury impaneled at 11:25 A. M.

JACK WILLIAMSON, being first duly sworn by the Clerk, testified on behalf of the petitioners as follows:

Direct examination.

By Mr. Catts:

Q. Your name is Jack Williamson?

A. Yes, sir.

Q. How old are you, Jack?

A. I am 23 the 14th of this past September.

Q. On or about May the 12th or 13th, 1933, where were you living?

A. I was living in Pompano, Florida.

Q. Where were you born?

A. In Georgia, Emanuel County.

Q. And who were you living with in Pompano on or about the 12th or 13th of May, 1933?

A. Living with Walter Woodward at Mr. Blount's quarters.

Q. Just where are the quarters located with reference to the railroad crossing there in Pompano?

A. It is on the east side of the railroad.

Q. About how far from the railroad?

A. I don't know exactly the distance, I never measured it, or heard any one say; it is around a mile.

Q. Were you arrested down there about that time?

A. I was arrested on the 14th night of May, Sunday night.

Q. Sunday night, the 14th of May, 1933?

A. Yes, sir.

Q. About what time of night?

A. It was between 11 and 12 o'clock. I didn't have no timepiece, I don't know exactly what time it was.

Q. Who was with you at the time you were arrested?

A. Walter Woodward, Izell Chambers and Claudie Mack.

Q. Are both of these boys in the court room?

A. Yes, sir.

Q. Point out where Walter Woodward is, which one of these boys?

A. That one with the light clothes.

[fol. 24] Q. This is Walter Woodward?

A. Yes, sir.

Q. And this one?

A. Izell Chambers.

Q. They were with you at the time you were arrested, they and one Claudia Mack?

A. Yes, sir.

Q. State what happened at the time you were arrested; what officer arrested you, and just what happened at the time the arrest was made?

A. On Sunday night, May the 14th, 1933, about 11 or 12 o'clock. Mr. Bob Clark, Chief Maddox of Pompano, some three or four men came there and called and knocked on the door, and I wakes up and opens the door and they come in.

Q. Who is Chief Maddox?

A. He is Chief of Pompano.

Q. Chief of police of Pompano?

A. Was at the time.

Q. And Robert Clark?

A. Yes, sir.

Q. Who was Robert Clark?

A. A deputy sheriff. I didn't know who he was at that time.

Q. Do you know whether he is brother to the Sheriff there?

A. Yes, sir, I hear he was brother to Mr. Walter Clark.

Q. Go ahead?

A. They came there and arrested me; they put handcuffs on.

Q. On who?

A. On me first because I opened the door for them.

Q. All right.

A. They walked in and so they put handcuffs on all four of us; and on the way to the car—they had a car parked out there at the quarters, around a hundred yards from the corner of the house, between the house and the car; they had a man chained to an old car side of the road.

Q. Who was the man?

A. Frank Manuel. They took him and put him in the car and carried us to Fort Lauderdale.

Q. What was said by these officers at the time they arrested you?

A. Asked them what it was about, or what did they held me for; they said "never mind about that, come on and go with us." So they made us trot from the house to the car.

Q. Why did they say they made you trot?

A. They said they was dodging a mob, to keep the mob from getting us.

[fol. 25] Q. And did you go on the run from the house to the car?

A. Yes sir.

Q. How many of you were put in the automobile; were you all put in the same automobile?

A. Yes, sir, five of us.

Q. You were all put in the same automobile?

A. Yes, sir.

Q. Now what happened to you after they put you in the automobile?

A. They took us to Fort Lauderdale Jail; took the handcuffs off me when they got to the county jail and took me back there in a room.

Q. Where was this room in the county jail?

A. It was down at the bottom when we first came in. I had never been in the jail, never had been in a jail before. When

they come in the door they took me alone and carried me back into a little room that way from the door.

Q. They didn't bring the other boys in there with you?

A. No, sir. Chief Maddox set me down in the chair and he cocked his pistol and stuck it in my neck, side of my head, and Mr. Bob Clark hit me there.

Q. What did he hit you with?

A. A pistol.

Q. What did he say to you?

A. I don't remember, I don't recall.

Q. Who all was present besides Bob Clark and Chief Maddox?

A. Bob Clark and Chief Maddox, and men was coming in and out, I didn't know anyone; I hadn't been down here that long. Then they take me upstairs and put me in a cell and kept me there until about daylight; about daylight that morning they took me back down in the same room they had me in before.

Q. That room you were in first, when they put you in there first, was just a private cell; did it have a bed in it?

A. It was a room that had a chair in it; it wasn't any cell, it was down in the bottom on the ground, had a chair and tools, something or other.

Q. How big a room was it?

A. I don't know just how large it was; it was a square room.

Q. As far as from here to the wall over there?

A. No, sir, I don't think it was that large.

[fol. 26] Q. Go ahead and tell what happened when you came back down there?

A. They took me back down there that morning about daylight, and Mr. Sheriff Walter Clark, Mr. J. T. Williams and Chief Maddox was down there; so they sit me down in the chair, and Mr. J. T. Williams had a bicycle tire and it was loaded with something; so he hit me side of the head and knocked me out of the chair, and when I went to get up he kicked me in the left side. So they took me then and carried me back up to my cell and put me by myself that time around in another tier.

Q. Was this the first time you ever see Capatin Williams, that morning?

A. Yes, sir, the first time.

Q. When they took you back down to that room that morning was the first time you ever see Captain Williams?

A. Yes, sir.

Q. What size man was Captain Williams?

A. He would weigh about 230 or 40 pounds.

Q. Did the Sheriff or Mr. Maddox or Captain Williams say anything to you at the time they hit you down there that morning?

A. Yes, they says something but I can't remember what they said. They cursed me, it was curse words; I was scared so I don't know what they said.

Q. Who were there?

A. Mr. Sheriff Walter Clark, Mr. J. T. Williams; several of them cursed me; these was the only men that I knew.

Q. How long did they keep you there; was it before daylight or after daylight?

A. They carried me down there right around daylight.

Q. Now after they left there you said they took you to a private cell?

A. Yes, sir.

Q. Where was that private cell?

A. It was upstairs. I had never been in the jail. I don't know just how the jail was built.

Q. Do you know what floor it was?

A. No, sir, I don't know, just what floor it was.

Q. You were in a cell by yourself?

A. Yes, sir, by myself; but they took me out of there later and carried me across—they never carried me downstairs—so they carried me to a room where a bed was and [fol. 27] a radio and I was taken out, he hit me, Mr. J. T. Williams.

Q. Who was it that took you out?

A. Mr. A. B. Marshall.

Q. He unlocked the door of your cell and took you to the other room?

A. Yes, sir, took me across to the room; I was taken out several times that day until late that evening; so they brought me back that night; then they came up there and took five of us and carried us to the Miami jail.

Q. What time of night was that?

A. It was the first part of the night.

Q. After dark?

A. Yes, sir, it was after dark.

Q. Who come up there to get you?

A. The jailer.

Q. Mr. Marshall?

A. Yes, sir.

Q. Anybody with him?

A. No, sir. When he come there was a man standing at the door of the elevator.

Q. After you were taken across to the room where the radio and the bed was, who all was there during that time?

A. Mr. J. T. Williams, Mr. Bob Clark, Chief Maddox, and another man with glasses, and I never knew him, I just remember him having on glasses.

Q. Did Mr. Marshall stay in the room there with you?

A. Yes, sir.

Q. He was there all the time you were there?

A. Yes, sir.

Q. And Captain J. T. Williams was there all the time you were there?

A. Yes, sir; he was the one that did the slapping.

Q. Was Sheriff Clark there all that time?

A. Yes, sir.

Q. Did anybody in the room at any time during the day on the several occasions you said you were called in there with the bed and radio, did anybody else hit you, other than Captain Williams?

A. No, sir.

Q. He was the only one?

A. Yes, sir.

Q. When you were taken out of that room where were you taken to first?

A. Taken right to the cell, the private cell.

Q. Nobody in there with you?

A. No, sir.

Q. You never did go back to the bull pen after the first [fol. 28] time you were taken there?

A. No, sir.

Q. Who took you to Miami?

A. Mr. J. T. Williams and Sheriff Walter Clark.

Q. Who else was in the car?

A. Five; me and Izell Chambers, Mack Little, Frank Manuel and Walter Woodward.

Q. Did they tell you where they were taking you?

A. No, sir, but on the road down there, there was a speed cop run up side of us, Sheriff Walter Clark was driving the

car and he told the cop that he had some negroes that he — taking down to Miami to escape a mob.

Q. The Sheriff told the police officer that?

A. Yes, sir.

Q. That's the first time you knew where you were going?

A. That was the first time. They took me down there and put me back up in the jail, and when they went to beating the boys in jail, Captain J. T. Williams told them to take that light son-of-a-bitch and put him in one of them death cells; and the man said he didn't have any blankets, and he said "never mind the blankets", so he put me in the death cell.

Q. Anybody there with you?

A. No, sir.

Q. How long did you stay in there?

A. I stayed in there until the next day.

Q. They feed you in there?

A. Yes, sir.

Q. Anybody come to the cell to see you while you were in the cell in Miami?

A. Yes, sir.

Q. That was in Dade County jail?

A. Yes, sir.

Q. When were you taken out of that cell that night?

A. I was taken out that night say around 12 o'clock.

Q. Who took you out?

A. Mr. Virgil Wright and Mr. Bob Clark.

Q. Virgil Wright an officer in Broward County?

A. Yes, sir, he was an officer, as far as I know, at that time.

Q. Have his gun with him?

A. Yes, sir.

Q. Did the jailer in Miami also come to the cell door to [fol. 29] get you?

A. Some men came there.

Q. They come to the door with Virgil Wright?

A. Yes, sir.

Q. What did they do with you then?

A. They took me and brought me back to Broward County jail and put me in a private cell again.

Q. Who all was with you when you came back to Broward County?

A. These two cars, they drove them up in two cars. I disremember who was in the car that I was in.

Q. And what did they do with you?

A. Carried me back and put me in the private cell they had me in at the beginning.

Q. The same cell?

A. Yes, sir.

Q. What time did you get back?

A. Around two o'clock.

Q. In the afternoon?

A. Yes, sir.

Q. Was that Tuesday?

A. Tuesday, yes, sir.

Q. After you were arrested on Sunday night?

A. Yes, sir.

Q. How long did you stay there then in that cell before anybody came for you again?

A. About two hours.

Q. Go ahead and tell what happened that time.

A. I was taken out about two hours after I came back from Miami, and J. T. Williams, Mr. Sheriff Walter Clark, Mr. Bob Clark, Mr. Chief Maddox, and some more men I didn't know, Mr. J. T. Williams he beat me over the head.

Q. Tell me where you were taken again and who came to the cell to get you?

A. The jailer, Mr. A. D. Marshall.

Q. Did anybody come with him?

A. No, sir.

Q. Where were you taken?

A. I was taken across into the same room where the radio and bed was, and then while Mr. J. T. Williams and Mr. Bob Clark and Sheriff Walter Clark was there, he beat me with a bicycle tire loaded with something, beat me with his fist and knocked me down.

Q. What was he saying during this time?

A. I don't recall just what he was saying; he was cursing, and they kept me and beat me around and then they put me back in the cell, and later on that evening—I didn't have any timepiece—but later on in the evening he came back up there and got me again.

[fol. 30] Q. Who come and got you?

A. Mr. A. B. Marshall, he would come for me every time, he was the onliest man to take me out of the cell. They took me back over in the same room where the bed and radio was at down there where Mr. J. T. Williams would hit me and strike me. So that evening he told me, Mr. J. T. Wil-

liams says "it isn't what you want to say but it is what we tell you to say; you are going to tell me what we want you to say"; so then they beat me and knocked me around. I told him "no, sir, I don't know anything about it." They beat me that evening. So they took me out of there and carried me back up to the private cell, where they had me once before, and came back again that night around first dark, at that time Mr. A. D. Marshall got me and carried me back in the bedroom where the bed and radio was. Mr. J. T. Williams he beat me again with a loaded bicycle tire, knocked me down, knocked me almost unconscious. He says "it isn't what you want to say, it is what we tell you to say, you have got to say what we tell you"; so he beat me until Wednesday morning, all night Tuesday until Wednesday morning, I don't remember how many times I was so scared.

Q. You mean to say they would take you to the bed room and when they took you out of there they took you back to the cell where you were and put you in by yourself?

A. Yes, sir.

Q. That continued all that night, you say you don't know how many times?

A. No, sir, I don't remember how many times.

Q. You sleep any that night?

A. No, sir.

Q. What happened to you the next morning?

A. The next morning they didn't bring me back. It came out in the newspaper that Frank Manuel and Mack Little confessed to the crime. So they didn't bother me Wednesday.

Q. How did you know it came out in the paper?

A. I read it.

Q. Did you have the newspaper?

A. Yes, sir. So they didn't bother me Wednesday night. [fol. 31] Thursday in the morning they came back for me again, Mr. A. D. Marshall came for me, took me out of the cell and took me across over there into this same room where the bed and radio was.

Q. Could you see the room where the radio and bed was from your cell in where they had you by yourself?

A. No, sir.

Q. How far would you say it was from that room?

A. I don't know, but it was on the same floor. I don't know just the exact distance, and I was so scared at the time.

Q. It wasn't right across the hall from you?

A. It was across the hall, but I don't know anything about the jail at the present.

Q. It wasn't directly across the hall?

A. No, sir. So on that Thursday evening they came back for me again.

Q. They didn't come for you any time between Wednesday morning until Thursday?

A. No, sir. So they beat me Thursday evening and Thursday night.

Q. Who did?

A. Mr. J. T. Williams, with a loaded bicycle tire, trying to make me say what he told me to say; they told me over and over, sit down and tell me what to say, and I would tell them that I didn't know anything about that, and they would knock me out of the chair, and another man would hit me, Mr. J. T. Williams would knock me down and strike me with the bicycle tire, and I would get up and get in the chair and he said "don't you know that some nigger has got to die for this, and we just as soon it be you as any one. All we got to do is to blow a long whistle and the whole mob of Pompano will be here for you in a few minutes." I said "I don't know, sir." So they took me back that time and put me back in the private cell where they first put me in. So they came back again way in the night that night and brought me out again; so they beat me that time and knocked me unconscious.

Q. This was way late in the night?

A. Yes, sir.

Q. Who came in there at that time?

A. Mr. Sheriff Walter Clark, the man with the glasses on, J. T. Williams; he was the man that done the beating.

Q. Captain J. T. Williams?

A. Captain J. T. Williams. So they took me and carried [fol. 32] me back and put me back in the private cell.

Q. Took you out while you were still unconscious?

A. No, when I got up where I could walk. I was crazy, I don't know, but when I knew anything I was in the cell.

Q. What did he beat you with?

A. Beat me with a loaded bicycle tire, or sticks and with their fist and kicked me, and I don't know what else. So they came back Thursday morning about daylight and took me out again and carried me into that room and they beat me that time, tried to make me say I knew Charlie Davis. On Friday morning I told them, "no, sir, I never see him

until I see him now." So he beat me terribly to make me say I knew Charlie Davis. I told him "no, sir, I had never see him before", and he knocked me unconscious at that time, and they struck me and cursed me and tried to make me say I knew Charlie Davis.

Q. Did you finally say you knew him?

A. Yes, sir.

Q. Why did you say you knew him?

A. I was scared they were going to kill me.

Q. Where was this happening?

A. In the same room. So they took me back and put me back in this private cell. So they took me out later on the same day and beat me again and asked me questions that I don't remember. So they took me back. That time they beat me again Friday night, and beat me with a bicycle tire and kicked me and knocked me around off and on all Saturday night. So Saturday they come later in the day Saturday morning and took me out again and they beat me again to make me say I knew Charlie Davis.

Q. Who took you out then?

A. A. D. Marshall, the jailer, took me out.

Q. Who came up there with him?

A. Mr. Sheriff Walter Clark, Bob Clark and Chief Maddox, Mr. J. T. Williams, and the fellow with glasses, and that's the only folks I knew; I hadn't been in Florida long and I didn't know anybody at the time.

Q. Go ahead?

[fol. 33] A. They took me out and beat me that time and made me to say I knew Charlie Davis again, and took me back in the cell, put me back into this private cell. So later in the evening, Saturday evening, they came up there, took me out of the cell again, and so they beat me up Saturday evening, and brought me back to the cell, and I stayed just a few minutes, and carried me right back again, and just kept me walking off and so on until way up to dark; so they brought me back, in just a few minutes and took me back for them again; and when I come back for them that time Mr. J. T. Williams told them, said "we — going to turn him over to the mob if he don't say what we told him to say", and trying to get me to tell what they told me, and beat me up trying to make me say it, and I couldn't remember every time they called me back, I couldn't remember it, and they were telling me over and over again, so finally

they got a grass rope that way laying there and they took the grass rope, and carried me to the bull ring cell——

Q. On what floor was the bull ring cell?

A. It was on the same floor. Carried me to the bull ring cell and tied the rope around my neck, and some one got one side and some on the other and caught the other end of the rope, and pulled me up by my neck, and beat me with the bicycle tire, and beat me with sticks and beat me until I was unconscious, then they dropped me back to the floor; I would get up and they would snatch me up, tell me what to say, and they try to make me say it, so I told them I couldn't remember it; so they did that again and again until they did it three times, and I told them the last time if they wouldn't — it any more I would tell what they told me to say.

Q. What time of night was the last time they took you in there?

A. It was late, way in the night. I don't know just what hour.

Q. On how many times on this Saturday night did they take you from your cell to that room?

A. I don't know just how many times it was.

Q. Did they keep you up all night?

A. Yes, sir, all night.

[fol. 34] Q. How long would it be between the times when they would come back and get you?

A. Just a few minutes. I didn't have any timepiece, I don't know the exact time.

Q. Did you sleep any that night?

A. No, sir, I was trying to pray.

Q. Did you see any of these other boys in there?

A. No, sir.

Q. Did you hear them take any other people out of these cells?

A. Yes, sir.

Q. Hear anything that was going on with the other people?

A. Yes, sir, I hear them hollering, I heard the licks.

Q. How long did you hear that going on?

A. This was a continual thing.

Q. All the week?

A. All the week, all night.

Q. You didn't know who they were beating at any time?

A. No, sir, I couldn't recognize the voices. I recognized Ize! Chambers voice once on Saturday night.

Q. About what time was it on Saturday that you finally told them that you would tell them what they wanted you to say?

A. It was in the morning; it was just a few minutes after they put me back, and they brought me back, and had all the other boys sitting in a chair in the other room.

Q. After you told them that did they put you back in the cell?

A. Yes, sir.

Q. When you told them that were you in the bull ring place?

A. I was in the bull ring place.

Q. They were putting the rope around your neck in the bull ring place?

A. Yes, sir.

Q. How long was it then before they came back to get you after you told them you would tell what they wanted you to say?

A. I don't know exactly how long, around 25 or 30 minutes.

Q. Had they been telling you what they wanted you to say?

A. Mr. J. T. Williams and Mr. Sheriff Clark had, yes, sir.

Q. They told you what it was they wanted you to say?

A. Yes, sir.

[fol. 35] Q. When they come and got you the next time, after they had put the rope around your neck the last time where did they take you after you told them that you would tell what they wanted you to say, and took you back to your cell, the next time they got you where did they take you?

A. They took me over to a little room where there was a sofa setting there and a bunch of chairs, right across the hall on the same floor.

Q. Who was in that room when you got there?

A. Mr. J. T. Williams, he came in with the jailer and got me that time, he was with the jailer when the jailer come after me, and they had Charlie Davis and Walter Woodward and Izell Chambers there when I got there.

Q. Who else was in the room?

A. There was some more men but I didn't know who they was.

Q. You know Mr. Maire?

A. I know him.

Q. You know whether he was one of the men that came in the room that morning?

A. Yes, sir.

Q. What time in the morning was it?

A. It was around sunrise.

Q. Were the lights still lit there in the room?

A. Yes, sir, I think they were, but it wasn't necessary.

Q. Just about daylight?

A. Yes, sir.

Q. You know Mr. Maire was there that time?

A. Yes, sir.

Q. He is the gentleman who is sitting over at this table?

A. Yes, sir.

Q. Did you see the court reporter there taking down what you said?

A. There was some three or four men there but I didn't know the court reporter from nobody else at the time.

Q. Captain Williams was still there?

A. Yes, sir.

Q. And Sheriff Clark was there?

A. Yes, sir.

Q. Just why was it that you said, whatever it was you said, there at that time to the officers of the law and the court officials, just why did you say what you did at that time?

A. Because they said they would kill me; they did everything else to me but kill me, and I thought that's what they [fol. 36] would do; they said they would do it, if I didn't say what they told me to say they would kill me.

Q. That's the sole reason you did it?

A. Yes, sir, because they did everything else to me, except kill me. I was scared to death.

Q. That was on Sunday morning, you say?

A. Yes, sir.

Q. Following the May 14th on which you were arrested?

A. Yes, sir.

Q. About sunrise in the morning?

A. Yes, sir.

Q. And that night had you slept any at all?

A. No, sir.

Q. How many times would you say you had been brought from the cell where you were kept?

A. I don't remember how many, lots of times, so many I don't remember.

Q. And that night you heard other people being beat?

A. Yes, sir.

Q. Now after that time were you later brought into court down there and charged with a capital offense?

A. Yes, sir.

Q. Did you enter a plea of guilty in that case?

A. No, sir. They told me to enter one.

Q. What plea did they tell you to enter, and what did you enter?

A. They told me if the Judge asked me was I guilty to say yes. Mr. Sheriff Walter Clark and Mr. J. T. Williams came to my cell door that morning, early in the morning, tole me I was going down before the Judge this morning, if the Judge asks you you better say yes, or we will put a rope around your neck, we will tie the rope around your neck and swing you over a limb and riddle you with bullets. So after he carried me down in the court room that morning, I was sitting over on some benches and he carried me off next to the jury stand there and he told me the same thing over again.

Q. Who did that?

A. Mr. J. T. Williams, and he told me the same thing over again, him and Sheriff Clark came to the cell door.

Q. That Sunday morning, Jack, when you were brought down, after you had told them you would say what they wanted you to say, and Captain T. J. Williams and Sheriff [fol. 37] Clark were present there at that time, was there a typewriter there in the room at that time?

A. Yes, sir, I think there was.

Q. That was in the jail at Broward County. Were you given any paper to sign there at that time?

A. No, sir.

Q. You weren't given a paper to sign at that time?

A. No, sir.

Q. Were you later given a paper to sign?

A. No, sir.

Q. You never were given a paper to sign?

A. No, sir.

Thereupon at this time a recess was taken until 2 o'clock P.M.

Afternoon Session

JACK WILLIAMSON, the witness on the stand at adjournment, returned to the stand, and testified as follows:

Direct examination (Resumed).

By Mr. Catts:

Q. Jack, during the time that you were in jail that you testified about, in Broward County, did any of the trustees around the jail visit you in your cell?

A. Yes, sir.

Q. Which one or how many; tell the jury just who did visit you?

A. Prince Douglas; he visited me and brought me some salve to go on the places that was cut, and on the back of the head here where J. T. Williams hit me on this side.

Q. Stand up and show that to the jury. (Witness stands before the jury). How many times did Prince Douglas visit you in your cell?

A. He visited me several times, I don't know just how many times.

Q. At the time he visited you, you say he brought you some kind of salve preparation?

A. Yes, sir.

Q. Did you use that, or did he put it on?

A. He put some of it on the back here, and this here, and he left a little bit with me.

Q. How many times did he visit you?

A. He visited me several times, he visited me quite a number of times.

Q. These wounds you have testified about on your head, what caused them?

A. Mr. J. T. Williams, he hit me there and caused this [fol. 38] wound.

Q. Show the jury the scar you have reference to that was inflicted by Mr. J. T. Williams and tell the time it happened?

A. He hit me there on Thursday night, and Mr. Bob Clark hit me there on the night which I was arrested, which was Sunday night; he hit me with his pistol; and this scar, Mr. J. T. Williams hit me; and others. I don't know who they are. There is a lot I don't know who all they were.

Q. Turn around and let the jury see? (witness turns around).

A. That's where Mr. Bob Clark hit me, and Mr. J. T. Williams kicked me on the side.

Q. Is there any scar there?

A. No, sir, there is no scar; on the inside there is a know.

Q. This scar down in the middle of your forehead?

A. No, sir.

Q. What caused that?

A. I got it in a wreck.

Q. Automobile wreck?

A. No, sir, motor car wreck.

Q. That happened some long time before this happened?

A. Yes, sir.

Q. Any other scars on your head you can show the jury caused by anything else; do you have any scars which were caused by anything else?

A. No, sir. Only that long scar, it was caused by a wreck, that long scar comes from the front of my head and ends right up here back of my ear. Mr. Bob Clark hit me just above that scar. That scar is not connected with it. That's where he hit me with his pistol.

Q. That scar that goes all the way across the top and side of your head was caused by an accident?

A. Yes, sir.

Q. But this one scar, V-shape, was made by Mr. Bob Clark hitting you with a gun?

A. Yes, sir.

Cross-examination.

By Mr. Maire:

Q. Jack, what night was it you say you were arrested?

A. On the 14th of May, Sunday night.

Q. And who arrested you?

A. Mr. Bob Clark and Mr. Chief Maddox, three of four [fol. 39] other men, I don't know who they were.

Q. Mr. Helton?

A. No, sir.

Q. Who brought you to the Broward County jail?

A. Mr. Chief Maddox and Mr. Bob Clark.

Q. Just the two of them brought you to the jail?

A. Yes, sir, brought five of us there.

Q. Where did they first take you when they first brought you to Broward County jail?

A. They took me aloose and took me to a little room, and Chief Maddox stuck his pistol to my neck and Mr. Bob Clark hit me there with his pistol.

Q. They did that before asking you any questions in there?

A. I don't recall; they said so much and cussed me so much, I don't know what they said. I was scared.

Q. You weren't so scared you don't recall some of the things you have testified about, do you, Jack; you recall everything you testified about, don't you?

A. I don't know just what you are talking about.

Q. Don't you remember what you have already told this jury?

A. Yes, sir.

Q. Was there anybody else in the sheriff's office at that time?

A. Yes, sir, there was men going out and in there.

Q. Men going in and out?

A. Yes, sir.

Q. Any women around there?

A. No, sir, I don't remember any.

Q. What floor in the Broward County court house is the sheriff's office on, do you remember?

A. I didn't know the sheriff's office from no other office at that time. This was on the bottom, when I first walked into the door and back in a room there.

Q. Was this on Sunday that they stuck the pistol at you and hit you that you testify about, or was that on Monday?

A. It was on the night I was arrested, I don't know what time of night, I didn't have any timepiece.

Q. How many times have you testified before with respect to the issues involved in this case? You understand my question?

A. Not exactly, no, sir.

Q. Do you know how many times you have testified in [fol. 40] this case?

A. Three.

Q. Is this the fourth time?

A. Yes, sir.

Q. Did you testify in the last hearing on the 21st day of February, 1935, that this happened on Monday morning, after you were arrested on Sunday?

A. I don't remember what I said in the last hearing.

Q. I asked you then on the 21st day of February, 1935, if you had testified in this case before, and here is the questions I asked you and the answers you gave; now listen and see if this isn't true; "You remember when you testified before I asked you this question,—I will go back and ask you this question: what occurred on Monday morning, that was the 14th? (Q.) What? On Monday morning after the 14th; that is what you said, and I said After the 14th; and you said, On Monday morning after the 14th. And I said Who was present when he did that? And you answered, Mr. Chief Maddox; he was the man that had the pistol cocked; stuck it to my neck, and I asked you this question: Anybody else present? and you said, Yes, sir, there were three of four men in there, but I didn't know them." Now did you testify that way in this trial before?

A. No, sir, I don't remember.

Q. Have you ever testified before any jury or any court room before you took the stand this morning right up there, that Chief Maddox and Bob Clark made you trot when you were arrested?

A. Yes, sir.

Q. You say that you testified to that before?

A. Yes, sir.

Q. When did you testify to that before?

A. I testified every time I been on the stand.

Q. Don't you know as a matter of fact you never testified to that before this morning?

(No answer.)

Q. Did you ever testify before this morning they told you they were making you run on account of mob violence?

(No answer.)

Q. Isn't this what you testified to on the last trial on the 22nd of February, 1935: "I was arrested on the 14th night of May of 1935 by Mr. Bob Clark and Mr. Chief Maddox. [fol. 41] I never knew no officers at that time, but I knew them when they had arrested me; so they wake me up out of the bed at Pompano, in Mr. Blount's quarters. On the way to the automobile that they had parked out there in the quarters I saw that they had a boy tied in chains and was locked to a car bumper, and they taken him loose and brung us to jail here to Ft. Lauderdale, (and they taken me downstairs in the Sheriff's office where they first brought me, and Mr. Chief Maddox of Pompano, he took a pistol

and stuck it to my neck.' Isn't that what you testified to before?

A. I don't recall.

Q. Are you swearing now you didn't testify to that before?

A. I don't say I didn't do it; I don't recall it.

Q. You didn't testify at that time that they said anything to you about mob violence, or making you trot, did you?

A. I mentioned that every time I been on the stand.

Q. All right, you say now they took you to Broward County Jail on Sunday the 14th at night, and that's when Chief Maddox stuck the pistol in you and when Mr. Clark hit you?

A. Yes, sir, it was between 11 and 12 o'clock when I was arrested; at the time they got me up to the jail, I don't know what time of night that was, but it was the following day of the 14th.

Q. You didn't make a confession then, did you, as a result of that treatment?

A. When?

Q. The first night they arrested you on Sunday the 14th?

A. Didn't make any what?

Q. Confession or any statement or any admission of any kind?

A. No, sir.

Q. When was the next time that any officers or anybody in the jail did anything to you?

A. That morning at daylight when they brought me back down.

Q. That was Monday morning?

A. Yes, sir.

Q. And who was there then?

A. Mr. J. T. Williams, Mr. Sheriff Clark, Mr. Bob Clark, Mr. Chief Maddox.

Q. And what did they do to you then?

A. That's when this J. T. Williams hit me with the loaded [fol. 42] bicycle tire and kicked me in the side.

Q. And where did that happen?

A. In the same room on the ground where I was first taken when I first entered the jail.

Q. In other words, they brought you downstairs on the elevator?

A. Yes, sir.

Q. And that was on Monday morning?

A. Yes, sir.

Q. Did they do anything to you on Monday that day?

A. Yes, sir, they taken me out often, off and on all day; they struck me every time they took me out until Monday night.

Q. Until about what time Monday night?

A. It was late in the evening. I didn't have any time-piece, I don't know.

Q. Anything happen to you on Tuesday?

A. Yes, sir.

Q. What?

A. They started beating me Tuesday evening, they beat me Tuesday evening, and Tuesday night taking me back and forth all the evening Tuesday, and all night Tuesday night, off and on.

Q. You say they beat you all day Monday, too, off and on?

A. Off and on until late Monday evening.

Q. Beat you with a hose, did you say?

A. Bicycle tire loaded with something.

Q. Treated you pretty badly on Monday?

A. They beat me pretty bad all the week.

Q. And also on Tuesday and Tuesday evening?

A. Yes, sir.

Q. You remember all those things that you say now, don't you?

A. Well there was licks; I should remember them.

Q. What happened on Wednesday?

A. They didn't beat me Wednesday. Wednesday, Mack Little and Frank Manuel, it come out in the paper they had confessed to the crime that was committed. They didn't beat me Wednesday.

Q. Up to Wednesday you hadn't made any confession of any kind?

A. No, sir.

Q. They do anything to you on Thursday?

A. Yes, sir.

Q. What did they do on Thursday?

A. They took me back and forth, walked me and beat me and struck me every time; I was taken out all day Thursday [fol. 43] day and all night Thursday night.

Q. Who was there then?

A. Mr. J. T. Williams, Mr. Sheriff Walter Clark, he was there, and some more men.

Q. Chief Maddox, you know him?

A. Yes, sir.

Q. Was he one of them?

A. No, sir, he wasn't there on Thursday.

Q. When you say the Sheriff, you mean Sheriff Walter Clark, this man here (pointing)?

A. Yes, sir.

Q. What happened on Friday?

A. Well they took me out on Friday and walked me off and on all day and struck me every time I was brought out.

Q. Threaten you in any way?

A. Yes, sir.

Q. Tell you they were going to kill you?

A. Yes, sir.

Q. Just what did they tell you?

A. I don't remember all they did tell me, they told me so much.

Q. Were you scared?

A. Yes, sir, I was scared and crazy, too.

Q. Well, you remember what happened; you weren't so crazy you don't remember what happened, do you?

A. I should remember.

Q. Whether you were crazy or not?

A. I was bound to remember that.

Q. But you didn't confess then, did you?

A. No, sir.

Q. On Friday?

A. No, sir.

Q. In other words, you had Sunday, Monday, Tuesday, Thursday and Friday, and you hadn't made any confession, up until that time. Go ahead and tell what happened on Saturday?

A. Well they took me Saturday—beat me all night Friday night and Saturday morning they got me again and walked me all day Saturday and Saturday night, until late Saturday night they come for me and took me from across a private cell to where there was a bed and radio in there, and they had a grass rope, Mr. J. T. Williams, Sheriff Clark, A. D. Marshall, Mr. Chief Maddox, and some more men I don't remember—

Q. Was it Saturday morning they started walking you and beating you?

A. Yes, sir.

[fol. 44] Q. Did they keep that up all day?

A. Yes, sir.

Q. Was Chief Maddox there, was he one of them?

A. He wasn't there Saturday morning; I don't know when he come there, but he was there Saturday night.

Q. What time did they start walking you on Saturday night?

A. They never did stop, they walked me off and on all day and Saturday night was when they come and take the grass rope and put it around my neck and pull me over the bar, that's when I remember seeing Chief Maddox.

Q. About what time was it you remember seeing Chief Maddox?

A. I don't know. I didn't have any timepiece. It was late in the night though.

Q. Have you ever testified before they beat you during the day time on that Saturday?

A. I don't remember what I testified.

Q. Saturday was the 20th of May, wasn't it, or do you remember?

A. I don't remember.

Q. You remember what day the confessions were taken?

A. Yes, sir.

Q. What day was that?

A. I don't remember the date, I remember it was on Sunday morning about sunrise.

Q. You say they started Saturday morning the 20th and kept that up all day and all through the night?

A. Yes, sir, they beat me all the week.

Q. Now you told about the balance of the week, I just want to get this Saturday part straightened out.

A. Yes, sir.

Q. Did they start early Saturday morning?

A. Yes, sir; it wasn't so early. I didn't have any timepiece, I didn't have the correct time, I can't say what time it was Saturday morning.

Q. You say that Sheriff Clark and Mr. J. T. Williams and some others were there, but Chief Maddox wasn't there in the day time?

A. Wasn't there in the day time.

Q. But at night Chief Maddox come around and joined [fol. 45] them; is that right?

A. Yes, sir.

Q. Didn't you testify before they came and took you out long about seven o'clock evening?

A. I don't know what I testified.

Q. Now this time you testified last was the 21st day of February, 1935; do you remember that?

A. I didn't just understand what you said.

Q. Do you know the last time you testified in the court room in Broward County?

A. Yes, sir, I remember.

Q. That was just last year, 1935, wasn't it?

A. I think so.

Q. And if there was any beating that took place in 1933, didn't it?

A. Yes, sir.

Q. Let me ask you this: did you testify on the 21st day of February, 1935: "and they taken me out then on the 20th of May and Mr. J. T. Williams taken me out about 7 o'clock in the evening, and they beat me, I don't remember just how long it was between the spaces; it was a space of time, but they beat me and then told them to take me back and bring another one out." Did you testify to that?

A. I don't remember.

Q. Did you give this testimony: "so they beat me until I was crazy"?

A. Yes, sir.

Q. "I don't know what I said and what I didn't say?"

A. Yes, sir.

Q. "I said what they wanted me to say: So Saturday night about 12 or 1:00 o'clock, something like that—1:30 they come up there and bring me down into the jailer's quarters, they say the jailer's quarters—office up there, with a bed and radio in it, and they taken me in that office and set me in a chair and carry me over and over what to say, telling me what to say." Did you testify to that?

A. I don't recall.

Q. But you recall everything you told this jury before I started questioning you, don't you?

(No answer.)

[fol. 46] Q. Do you know a physician by the name of C. F. Duncan and one named R. L. Brown?

A. Yes, sir.

Q. Do you remember when they went to Raiford and made an examination of you while you were at Raiford?

A. Yes, sir.

Q. How long was that after you had been tried in Broward County before they made that examination?

A. I don't know just how long; several months.

Q. You showed those doctors those scars at that time, did you?

A. Yes, sir.

Q. And you didn't tell either one of those doctors then that any of these scars had been made in an automobile accident, did you?

A. Yes, sir, I think I did. I don't just recall whether I did or not.

Q. You were beat up you say by these men on Saturday night and Sunday morning, the 20th and 21st of May; and did you make a statement or confession that was taken down in writing in the presence of B. B. Johnson, W. F. Ford, W. C. Goodrich, Walter R. Clark, R. C. Helton, A. D. Marshall, H. M. McNeal, J. T. Williams, Lewis F. Maire and J. W. Coleman, the Court Reporter at 6:30 o'clock in the morning?

A. I made a confession about sunrise Sunday morning.

Q. That's when you made this confession, isn't it?

A. That's when I said what they had told me to say.

Q. That's when you said what they had told you?

A. Yes, sir.

Q. Now you had been beat at that time from the day before, Saturday morning, all day and all night?

A. Yes, sir.

Q. With a rubber hose?

A. Off and on.

Q. Kicked?

A. Yes, sir.

Q. Had a rope tied around your neck?

A. Yes, sir.

Q. Scars made on your head, your head busted open; is that true?

A. My head wasn't busted open, but there was a gash cut in my head and scars all over my head in two or three places.

Q. Was there more than one gash in your head?

A. Yes, sir.

[fol. 47] Q. Had it healed up by that time?

A. No, sir.

Q. So that all these men that were present could have seen that gash on your head?

A. If they had looked for it, yes; sir, but they never looked for it. I wasn't examined.

Q. All of these men there at that time were not sheriff's officers and police officers, were they?

A. Sir?

Q. All of the men that were present were not sheriff's officers or police officers, were they?

A. I don't know what they were.

Q. You remember I was there, don't you?

A. I remember you, yes, sir.

Q. And you remember that I asked you whether anybody had promised you anything or not?

A. No, sir.

Q. Whether anybody beat you?

A. I don't know what I said I was so crazy and scared, too.

Q. You remember me saying this and you answering it this way? "Your name is Jack what?" You said "Jack Williamson." I said, "Jack, do you want to make a statement about a case involving the robbery of Mr. Darcey at Pompano on Saturday, May 13, 1933?" And you said: "Yes, sir." I said: "Has anybody mistreated you in any way to induce you to talk, anybody beat you or hit you or anything like that?" You said "No, sir." I said, "Has anybody promised you any reward or anything at all to get you to talk?" You said, "No, sir." I said, "You want to make a statement just to tell the truth about it in the presence of all these men?" You said, "Yes, sir." I says: "What you are going to say you are going to say it because you want to say it and not because anybody has beat you or abused or hurt you or anything? You said: "No, sir, they haven't." Is that true?

A. I don't remember what I said.

Q. You don't remember saying it?

A. No, sir.

Q. And you are testifying now if you did say that that wasn't true?

A. I don't know what I said.

Q. You know everything that happened to you but you don't know what you said; is that right?

A. I know when I was struck and beat and kicked.

[fol. 48] Q. Now did you say that at that time; is it true or false?

A. I don't remember saying that.

Q. You don't deny saying it then?

A. I was crazy, I don't know what I said.

Q. You were crazy from the result of all this beating?

A. Yes, sir.

Q. Well if you were crazy how do you remember what you have been telling this jury about?

A. I should remember the licks and who hit me.

Q. Why shouldn't you remember the rest of it?

A. I don't remember what I said because they had told me to say it, and carried me over it.

Q. What do you mean when you say "they"?

A. Mr. Sheriff Walter Clark and Mr. J. T. Williams and the fellow with the fellow with the eyeglasses, and some more.

Q. Who took you from your cell the first time on Saturday?

A. Mr. A. D. Marshall took me each time, the jailer.

Q. Was that Saturday morning?

A. Yes, sir.

Q. You remember testifying this way on the last trial on February 21, 1935, when I asked you this question: "Do you know about what time it was the first time they took you out of your cell that night, the night before the confessions were taken", and you answered like this: "It was right early, first of the night." Did you testify that way?

A. I don't remember what I testified.

Q. All you remember now and all you can think of to tell this jury is that these officers took and beat you all the evening long, and that's all you can remember to tell them about it, isn't it?

(No answer.)

Q. When did you commence to get crazy?

A. I don't know the beginning when they all was beating on me.

Q. Were you kind of crazy on Monday after they beat you on Sunday?

A. I don't remember.

Q. Were you kind of crazy on Tuesday after they beat you on Monday?

A. I don't remember, sir.

[fol. 49] Q. Were you crazy on Wednesday after they beat you on Tuesday?

A. I don't recall, but I was crazy Sunday morning when they beat me and I lost sleep all the week up until Sunday.

Q. Were you crazy at any time before Sunday?

A. Yes, sir.

Q. They beat you up before Sunday, didn't they?

A. They beat me all the week, every time I was taken out.

Q. You didn't get crazy until you made the confession?

A. No, I was crazy all the time.

Q. Then you didn't make the confession on account of being crazy, because you didn't confess before Sunday morning, did you?

A. I don't remember.

Q. You didn't make a confession on Monday, Tuesday, Wednesday, Thursday, Friday or Saturday, although you testified you had been beaten continually during all of those days, except Wednesday, yet you didn't make a confession until Sunday morning, did you?

A. I didn't confess; I told what they told me to say.

Q. You told what they told you to say?

A. What they told me to say.

Q. After that statement was made on Sunday morning, then what happened to you?

A. Sir?

Q. After they told what they told you to tell, then what did they do to you?

A. Took me back and put me in a cell.

Q. What did they do after they put you back in the cell?

A. Well they come and told me off and on every day, they told me over and over what to say.

Q. Who did?

A. Mr. Sheriff Walter Clark and Mr. J. T. Williams.

Q. You had already said what they wanted you to say?

A. Yes, sir.

Q. Did they beat you any then?

A. No, sir.

Q. They didn't beat you after that Sunday?

A. No, sir.

Q. How many days was it after that Sunday before you were taken down before Judge Tedder and entered your plea?

A. I don't remember.

Q. Was it several days?

A. I don't remember just how long it was. It wasn't the next day.

[fol. 50] Q. But you were taken down before Judge Tedder?

A. I was taken down there before some man, I didn't know whether it was Judge Tedder or who it was.

Q. You know where the court room is, don't you?

A. Since I have been in it several times, but I didn't know it before.

Q. You know now you are before Judge Chillingworth in a court room?

A. Yes, sir, I realize it.

Q. And you were taken before Judge Tedder, weren't you?

A. Yes, sir, I guess I was.

Q. What did Judge Tedder tell you when you were brought up there to plead in this case?

A. I don't remember.

Q. Don't you know he asked you whether or not you had ever been beaten?

A. No, sir.

Q. You remember that?

A. No, sir.

Q. Did he ask you whether or not anybody had promised you anything to get you to plead?

A. No, sir.

Q. Or whether any sort of representations had been made to you of any kind to induce you to make a plea?

A. No, sir.

Q. You don't remember that?

A. No, sir.

Q. Did anybody beat you up that morning?

A. No, sir. They come and told me what to say, they would take me out and tie a rope around my neck and hang me to a limb if I didn't say what they told me.

Q. Who did all that?

A. Sheriff Walter Clark, Mr. J. T. Williams.

Q. Don't you know that Mr. Clark and Mr. J. T. Williams never went up in the jail the morning you were brought down?

A. They went in my cell.

Q. Don't you know that A. D. Marshall is the only man that saw you that morning and he was the only one that took you from the cell?

A. They come up there before he took me out of the cell.

Q. You swear they did?

A. Yes, sir.

Q. And they told you you better go in and plead guilty; is that right?

A. Yes, sir.

[fol. 51] Q. You remember that?

A. They told me over and over again.

Q. You weren't crazy then if you remember that?

A. I was scared and crazy, too.

Q. Were you scared after you got in the court room?

A. Yes, sir, scared the whole time I was in Broward County.

Q. Did Judge Tedder give you every opportunity to testify there in the court room and tell anything that happened to you?

A. I don't remember.

Q. You don't remember that?

A. No, sir.

Q. On this Saturday night and Sunday morning you claim you were beaten, who did the beating?

A. Mr. J. T. Williams did the most of the bearing, tied the rope around my neck and swing it up on the bar, and Chief Maddox beat me, Sheriff Bob Clark struck me, and several other men—there was some other men that kicked and hit me, I don't know who it was.

Q. Was Chief Maddox there?

A. Yes, sir.

Q. Was Bob Clark there?

A. Yes, sir.

Q. Don't you know that Chief Maddox or Bob Clark weren't over at the jail?

A. I know they was there from the time the rope was around my neck.

Q. Where was it they tied the rope around your neck?

A. It was upstairs in the place called the bull ring.

Q. What did they tie the rope to?

A. They didn't tie it to anything, they throwed it through a crack to a bar on one side and pulled me up on the other.

Q. Chief Maddox and Bob Clark did that?

A. Mr. J. T. Williams, Chief Maddox. Mr. Walter Clark didn't have anything to do with that, he stood back with a pistol in his hand cursing and telling me what to do.

Q. What did they hit you with that night?

— A bicycle tire loaded with something, and sticks, had sticks, I don't know what all, their fists and kicked me.

[fol. 52] Q. What did they beat you for, what did they want you to say?

A. They wanted me to say what they had told me to say.

Q. What did they tell you to say?

A. I don't remember.

Q. Didn't you testify before they wanted you to say you knew Charlie Davis?

A. No, sir, not that night.

Q. What night was it they told you that?

A. They told me that back in the week, they told me that Thursday night and Friday.

Q. Did you know Charlie Davis before this time?

A. No, sir.

Q. You ever work with him in Pompano?

A. I met him in jail in Fort Lauderdale.

Q. Did you bleed any that night?

A. Yes, sir.

Q. Any blood fall on your clothes?

A. Yes, sir.

Q. How much did you bleed; freely, or just a little bit?

A. Well I don't remember how much I bled, but I bled.

Q. How much blood got on your clothes?

A. I didn't have on any shirt.

Q. You had on an undershirt?

A. I had on B.V.D.'s, yes.

Q. What?

A. Yes, sir.

Q. Any blood get on that?

A. Yes, sir.

Q. Was any blood on it that morning when you went in where these men were and made that statement?

A. Yes, sir.

Q. You know Frank Manuel?

A. Yes, sir.

Q. Was Frank Manuel in jail where you were in Broward County jail?

A. Yes, sir.

Q. Between the 14th and 21st day of May in Broward County jail, did you tell Frank Manuel you had gotten these scars working on a railroad, some of them?

A. No, sir.

Q. You didn't tell him that?

A. No, sir, I wasn't nowhere around Frank Manuel, I was in a private cell to myself all the week only when I was taken out.

Q. Did you work in the field with Frank Manuel before this trouble?

A. Yes, sir.

Q. Did you have an accident while you were working at Mr. Blount's by which you got some of these scars?

A. No, sir.

Q. Did you tell Frank Manuel you got some of them that way?

[fol. 53] A. No, sir.

Q. You now say to this jury that you got one of the scars in an automobile wreck?

A. No, sir, I didn't tell the jury that.

Q. You said a motor car accident, didn't you?

A. Yes, sir.

Q. Is that where you did get it?

A. That long scar, yes.

Q. What do you mean when you say motor car, is that on the railroad?

A. Yes, sir, railroad motor car.

Q. Did you ever tell Frank Manuel that's where you got it?

A. No, sir, I never had much talk with Frank Manuel.

Q. Did you two months before, approximately two months before Mr. Darcey got killed and this case came up, tell Frank Manuel while you were working out in the field in Pompano, did you show him the scars on your head and tell him you got those on this motor car truck you just testified about?

A. No, sir.

Q. You sure you know Frank Manuel?

A. Yes, sir.

Mr. Maire: Bring Frank Manuel in.

Q. You know that boy there?

A. Yes, sir.

Q. Who is that?

A. That's Frank Manuel.

Q. You know Mr. G. A. Worley, an attorney at Miami?

A. No, sir.

Q. Did Mr. Worley ever come and talk to you about this case in the Broward County jail after you were convicted?

A. No, sir.

Q. Did he talk to Charlie Davis in your presence about it?

A. No, sir.

Q. Who represented you on the first trial of this case?

A. We had a lawyer—I don't recall his name. I think his name was Mather.

Q. W. C. Mather?

A. I don't remember his initials.

Q. Did Mr. Mather ever talk to you about this case before he went in the court room?

A. I don't remember, but he talked with me during the trial. I asked him to come up to my cell and he came up there. I told him I was innocent and had witnesses to prove my innocence, and he gave me a pencil and a piece of paper, but he told me there wouldn't be no use of me giving him no [fol. 54] names because they wouldn't let them take the stand.

Q. Did he give you a pencil and piece of paper and tell you to write the names of the witnesses?

A. He said there ain't no use trying to get them down because I haven't got any witnesses.

Q. Didn't he take you into a room right off the Broward County court room, with a Mr. Albert Griffis, the other attorney, and didn't they talk to you in the presence of these other defendants, and talk to you about this case?

A. Yes, sir, they talked to us all, some men talked to us all, the lawyers.

Q. The lawyers that were appointed by the court?

A. Yes, sir.

Q. Did you ever tell those lawyers at that time that you had been injured or coerced in any way to make this confession?

A. I don't remember.

Q. Don't you know you told them you hadn't been?

A. I don't remember what I said.

Q. Don't you know you told your lawyers that you made this confession freely and voluntarily and nobody had ever beaten you or hit you or coerced you or promised you anything to get you to make it?

A. No, sir, I never told them that.

Q. You know Virgil Wright, deputy sheriff, up there?

A. Yes, sir, I think I do.

Q. Mr. Wright ever beat you in any way?

A. No, sir.

Q. Did you talk to Mr. Wright while you were in the jail there between the week of the 14th and 21st?

A. No, sir, I don't remember seeing him.

Q. Did you tell Mr. Wright you got these scars on your head in a motor car accident?

A. No, sir.

Q. You deny that, do you?

A. Yes, sir.

Q. Didn't you tell him that?

A. No, sir.

Q. To either he or Mr. Walter Clark?

A. No, sir.

[fol. 55] Redirect examination.

By Mr. Catts:

Q. Jack, did you say the day you were carried over to the court house, in answer to Mr. Maire's Question, that Mr. J. T. Williams came in your cell before you were taken out?

A. Yes, sir.

Q. Did you see Mr. J. T. Williams in the court room that day?

A. Yes, sir.

Q. Did he have any conversation with you in the court room?

A. Yes, sir. I was sitting on the bench at the time, all four of us, and he carried me off and told me to remember what he had told me that morning, what him and Sheriff Clark told me that morning in my cell.

Q. And what you said in the court room that day, did you still have the same fear of Mr. Williams that you had on Sunday morning?

A. Yes, sir.

Q. What made you go ahead and admit, say what you did in the court room that day?

A. Because I was scared of Mr. Williams, and scared of him yet.

Q. Jack, during the time that you were in the jail there in Broward County, from Sunday night when you were arrested, until the next Sunday morning, when you were brought into the presence of these other three petitioners, did you at any time during that week or period of time see any of these petitioners, other than Izell Chambers?

A. No, sir.

Q. And you only see Izell Chambers, when he was taken to Miami and brought back?

A. Yes, sir.

Q. You were kept in confinement by yourself during that time?

A. Yes, sir.

Q. Did you see and talk to Frank Manuel during that time?

A. No, sir.

Q. Were you at any time ever put in the bull pen where these petitioners were?

A. From the first morning I was arrested until I was hit on the head, then I was taken to the bull pen.

Q. How long did you stay there?

A. I stayed there a short time. I was taken back, and [fol. 56] that's when they kicked me in the side and hit me with a loaded bicycle tire, then they took me from there and put me in a private cell.

Q. From that time on did you see any of these other petitioners?

A. No, sir.

Q. Did you see Frank Manuel?

A. No, sir.

Q. Did you see Mack Little?

A. No, sir.

Q. Did you see any other person who was there in that jail for the homicide?

A. Yes, sir.

Q. You never saw or talked to the others in the jail?

A. No, except Charlie Davis, they brought him in and kept him there for a moment.

Q. That's the time they were trying to get you to say you knew Charlie Davis?

A. Yes, sir, but I didn't know him.

Q. Did you have any conversation with him alone at that time?

A. No, sir.

Q. You did say you saw the trusty down there?

A. Yes, sir he brought me something to eat.

Q. And the other inmates of the jail, the other prisoners you didn't have an opportunity to converse with them?

A. No, sir, no one.

(Witness excused.)

WALTER WOODWARD, being first duly sworn by the Clerk, testified on behalf of the petitioners as follows:

Direct examination.

By Mr. Catts:

Q. You are one of the petitioners in this case?

A. Yes, sir.

Q. Where were you living on or about the 12th, 13th and 14th day of May, 1933?

A. I was living in Mr. Blount's quarters.

Q. Did you have a house there in Mr. Blount's quarters?

A. Yes, sir, I had a tenant house.

Q. How many rooms in that house?

A. Two rooms.

Q. You married?

A. Yes, sir.

[fol. 57] Q. Who was living there with you at the time of your arrest?

A. Jack Williamson, Izell Chambers and Claudie Mack.

Q. Now on Sunday night, May 14, 1933, were you at home that night?

A. Yes, sir.

Q. What time did you go home, or had you been home all day?

A. I had been right around in the quarters all day; I hadn't been far from the quarters all day.

Q. When did you go to bed that night?

A. I went to bed around nine o'clock.

Q. Who all was home with you at the time?

A. They all was there, every one that stays there, Jack Williamson, Izell Chambers and Claudie Mack.

Q. Did they also go to bed about the same time?

A. Yes, sir, we all went to bed about the same time.

Q. How long had you lived in Pompano?

A. I went to Pompano the last day of November, 1932, and I lived there from the last day of November up until the time I was arrested the 14th of May.

Q. Where did you go there from?

A. I came from Scriven, Georgia, here.

Q. Do you remember that Sunday night when you were arrested, May 14th, you remember the night you were arrested?

A. Yes, sir.

Q. You been in jail ever since?

A. Yes, sir been in jail ever since.

Q. Tell the court and jury just the circumstances and what happened at the time you were arrested that night, who arrested you, and all that happened?

A. Well, the 14th night of May I was in my house in Mr. Blount's quarters, around 11 or 12 o'clock this night, which was on the night of the 14th of May, when I was arrested by Mr. Bob Clark and Chief Maddox of Pompano, at that time, and Mr. Dick Goodrich, and there was two or three or four men who I didn't know who they were were present.

Q. At that time did you know Mr. Goodrich?

A. No, sir.

Q. You know Chief Maddox?

A. Yes, sir, I know Chief Maddox.

[fol. 58] Q. Did you know Bob Clark at that time?

A. No, sir.

Q. Chief Maddox was the only one that came there that you knew at that time?

A. Yes, sir.

Q. You did know he was a police officer?

A. Yes, sir.

Q. Go ahead and tell what happened.

A. So I was lying down asleep, I didn't know even when they come and called; I guess I was the last one to wake up, because some one hit me on the bottom of the feet with a club or jack or something, but not enough to hurt you; I felt it sting, and I jumped up. He had a flashlight and they told me to get up. I said "for what," and they said "it's no time to mess around here because if the mob gets you you will know what it is." So they rushed me out without time to get my shoes. They trotted me to the car, and when we come out Frank Manuel was tied and fastened to a car, an old body of a car just outside my yard twenty or thirty feet; so they got him in the car along with us, and when we got in the car we got in Chief Maddox' car and was taken to Broward County jail and locked in a cell.

Q. Who was taken?

A. Izell Chambers, Claudie Mack, Frank Manuel and myself.

Q. And Jack Williamson?

A. Yes, sir.

Q. Five of you taken down there in Chief Maddox' car?

A. Yes, sir. So Chief Maddox put me up upon the second floor of the bull pen. He took \$1.10 off me in silver. So I was lodged in jail until Monday evening. The first time I was taken down I seen Captain Williams, Mr. Marshall the jailer, Sheriff Clark, the three men was present.

Q. That was the first time you had been taken out of the bull pen at the time you were put in jail?

A. Yes, sir.

Q. At the time you were put in there Jack and the rest of them were all put in jail the same time?

A. Yes, sir.

Q. Were any of the rest of them taken to the jail there put in the bull pen with you?

A. Yes, sir, one of them, Claudie Mack.

Q. You remained there that Sunday night until Monday night without having anybody take you out?

A. Without being taken out.

[fol. 59] Q. And they took you out that evening, you said, Mr. Marshall, Sheriff Clark and Captain Williams took you out, all three?

A. No, sir.

Q. Well, who come and got you?

A. The jailer got me, he took me out on the elevator up on another floor, I guess his quarters, there was a bed in the room, I don't know whether there was a radio in there or not; so he beat me in there and axed me and wanted me to tell him what I knowed about this crime, this homicide; I told him I couldn't tell him anything.

Q. Who was talking to you?

A. Captain Williams.

Q. Did he come down with the jailer, or did you find him in the room?

A. I found him in the room when I went upstairs, I was carried to the bedroom where he and Mr. Clark the Sheriff was. So he asked me about the homicide; I told him I didn't know anything about it. Well he asked me several different questions, but I was not hit that time at all. Of course I was crazy. He said I was lying, I had to come straight, etc., and all like that, so I wasn't questioned very long before I was taken back to the same place I came from, and I was taken out several times through the week, sometimes in the day and sometimes at night and questioned in connection with this homicide.

Q. Were the same people there each time?

A. No, the same wasn't there every time. The jailer was there, Mr. Marshall, and the Sheriff, Mr. Walter Clark and Captain Williams was there, and sometimes there would be other people.

Q. But these three were always present?

A. Yes, sir.

Q. Now how many times after that Monday night when you were taken out, you say you were not struck or abused, how many times after that were you taken out?

A. I don't recall just how many times, but I was taken out several times, sometimes two or three times a day.

Q. Were you ever struck while in jail by anybody?

A. Yes, sir.

Q. When was that?

A. Well I was struck every time, except the first time I went down, I don't recall being struck, but after this Monday evening, that was the first time I was lodged in jail, I was taken down, with the exception of that time either my [fol. 60] my feet was stamped or I was struck and told I was lying.

Q. Tell the jury the first time you can remember you were taken down and abused that way?

A. The first time I remember being taken out and went under torture on Monday night, after this Monday evening; I was taken back Monday and was brought out again in the early part of Monday night and was asked about this homicide, and when I didn't know anything about who committed the crime, or either know Charlie Davis, why this Captain Williams stamped my feet; and I was barefoot, and I was kept the whole time I was there without my shoes, while I was down there, until I was sentenced and sent to Raiford, even went down to the trial with *abre* feet, and when I asked for my shoes I was told I didn't need no shoes.

Q. Who told you that?

A. Captain Williams. The concrete was cole; it was May and the concrete was cole at that time.

Q. You say he stamped your feet?

A. Yes, sir.

Q. What room were you in when this happened?

A. I was in the same room up from the cell I was in.

Q. That was the room that had the bed in it?

A. That was the room that had the bed in it.

Q. And the Sheriff was there at that time?

A. Yes, sir, in fact he was present every time I was brought out.

Q. Tell the jury what he did when he stamped your feet?

A. Well sometimes he stamped my feet once or twice, just according how long I might be talking to him and asking me questions. He struck me several times and my feet was stamped and I was told I was lying, and I would be taken back, but from time to time, I don't recall how many times, each day and night, except one day, on Wednesday, I was taken down day and night during the period of eight days I was lodged in Broward County jail, and several different times I was taken down and struck. I wasn't beaten until the night of the 20th, which was on the following Sunday night.

Q. Tell the Court what happened on that night?

[fol. 61] A. That night they come up and got me—

Q. You been staying in the bull pen all the week?

A. In the bull pen all the week, yes, sir, where several other prisoners were.

Q. Were they in there in connection with the same matter?

A. Some wasn't even connected or arrested on the same thing. So on the night of the 20th I was brought down and Captain Williams asked me do I know Charlie Davis. I told him no, sir, I didn't know him, just as I told him all the week; he told me I was lying, I had to come straight, so when I denied it why he struck me as usual, like he had from time to time; he didn't break the skin at these different times but I was struck hard enough to be bruised. So after I denied it he stamped my feet and cursed me, grilled me for fifteen or twenty minutes, and told them to take me back to my cell; they took me back to my cell, and then later I was brought back and he told me, he says "Jack have come across and you just come across", and then he began to brutally beat me sure enough at that time; as far as being bloody, I wasn't bloody, but like I was struck in the side some time Saturday night.

Q. What did he hit you with?

A. I was struck with a club.

Q. Who hit you?

A. Captain Williams.

Q. Did it make a scar?

A. Yes, sir.

Q. Stand up and show the jury the scar. (Witness stands up.)

MICRO CARD

TRADE

MARK



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A. The scar is right here.

Q. Where were you when you were hit there; in the same room?

A. Yes, sir.

Q. You ever taken in any other room, other than that one room?

A. Yes, sir.

Q. Is the bull pen in that same room?

A. Yes, sir.

Q. About what time of night do you say that was after they told you that Jack had already come across?

A. That was the night of the 20th.

Q. About what time would you say it was?

A. It was the early part of the night.

[fol. 62] Q. Just what kind of club was it?

A. It seemed to be a piece of some kind of a handle like a hoe handle or shovel, it was a handle of some kind; it run off sharp like this, one end sharp and the other end blunt.

Q. Had you seen that instrument around there before that time?

A. Yes, sir, I see it before that time.

Q. Go ahead and tell the jury what else happened to you after they struck you with that instrument?

A. So after I was struck with this instrument he grilled me for quite a while, I stuck to it I had been telling him all the time I knew nothing about it, and so he ordered me back to my cell, and I was taken out several times after this time, I was taken out several times on the night of the 20th, and later in the night, around two o'clock this night I come down and he told me if I wanted to live to sunrise it would be best to come across, and if I didn't I would be taken to the west Dixie and there would be a necktie party, if I didn't come across, I better come across because Jack Williamson had come across and said I was one of the boys in it. So I still denied it. Well Captain Williams had an automatic pistol and had it in a scabbard, and Charlie Davis was sitting side by side, and had me sitting in the chair in front of them, and he was nodding like he was sleeping sitting up with his eyes closed, and Captain Williams was crying, and he told when I kept denying it, he drew the gun and pushed me to the window and stuck the gun to my head, an automatic gun, and told me if I said another time that I was not there and had part in the crime, that he would kill me and throw me out the window, and Mr. Clark jumped in then and got be-

tween me and Captain Williams, and he said "you better taken him out of here, if you don't, I will kill him", and he took me back to the cell.

Q. What was he crying about?

A. He said I had told lies and kept him sitting up all the week and he was tired and if I didn't come across I would never see the sun rise.

[fol. 63] **Q.** And he took you back to your cell?

A. Not the same cell I was — the third time I was brought out, I was kept in another part in a private cell; after the third time on the night of the 20th, then I was taken back to the private cell. So I hear them hollering, some of the boys and shortly after that they come back, shortly after that, twenty or twenty five minutes, and bring me out. He said "you know I am going to kill you tonight if you don't break down, you just come across and tell what I want to know." I told him he had no right to kill me because I can't lie to myself. He says "you going to tell me", so he went to crying again, and he says "I am going to take you to the west Dixie". I begged him if he wouldn't take me to the west Dixie and if he would send for the State attorney he could take down what I said, I said send for him and I will tell him what I know. So he sent for Mr. Maire some time during Saturday night, must have been around one or two o'clock in the night, it was after midnight, and so he sent for Mr. Maire, I didn't know Mr. Maire then, but I know him now by his face.

Q. Where did they take you when Mr. Maire came in?

A. Just in the same room, Mr. Maire came in the same room I was in. Of course it may have been his office, but I was in the same room I had been questioned in continually all the week.

Q. That's where you were when Mr. Maire came in?

A. Yes, sir.

Q. What happened at that time.

A. Well he come in and said "this boy got something to tell me" and Captain Williams says "yes, he is ready to tell you." Well during the time they had sent for him Captain Williams gave me a cigarette and told me to smoke a cigarette so I would be ready to tell him. So I was sitting there thinking what to say, because I was afraid of being killed, because he threatened to kill me all the week, swore I wouldn't see the sun rise, and I got to the place where I had

to tell him something, so I was sitting there studying what to tell him, when I knew I didn't know nothing to tell him.

[fol. 64] So Mr. Maire came in. Well I had figured while I was sitting there of reading in the newspaper on Wednesday, which was May 17th, I got hold of, I think it was a Lauderdale paper, and I see in the paper, which I read the headlines, negroes made a confession, Frank Manuel and Mack Little. So that's what I told him when he come in. Mr. Maire had a pen and a book to take down what I told him, which he said had to be on the typewriter, but I didn't see any typewriter, I saw him with a pen and book, so whether it was shorthand or regular writing I don't know, but he took it down with pen. After I told him my story he said it was no good, and he tore it up. He said "when you get something I will come back."

Q. What was it you told him that time?

A. I told him that I re-d in the newspaper where Frank Manuel and Mack Little had made a confession.

Q. You tell him you overheard any conversation?

A. Yes, sir, I told him I overheard conversation; they were at my home the Sunday night before they were in my home and I overheard the conversation, that they was talking but I didn't know what they was talking about, I didn't get it all, I heard them talking about spending some of the money that was taken off this man. He asked me several questions and I couldn't tell him anything further, only they was just talking in the house.

Q. Were you making that up about overhearing that conversation?

A. Yes, sir, I had to make something up.

Q. What was it Mr. Maire said?

A. He told them it wasn't no good, when they got something out of me he would be back. It was late he had to go back and go to bed.

Q. Then what happened?

A. Well after that Captain Williams put a grass rope on my neck and said if I ain't going to tell the truth I am going to kill you. So he was strangling me with a rope, put a rope around my neck and strangled me, and then he ordered me back to the cell, and go get another one. I wasn't in the cell long before they come back. After I come out of the cell I was in the bull ring, and the cell is in the bull ring in a line [fol. 65] like that, and I come out the bull ring door and Captain Williams met me with the rope and put the rope

around my neck the second time, and that's when I made the confession.

Q. What did he say?

A. He twisted the rope and strangled me, swore he would kill me. He said if I didn't say I was present when this man was killed he would kill me before sunrise, and it wasn't very long before sunrise.

Q. What did they do then?

A. They took me into the same room that Mr. Maire was going to take the confession in.

Q. Did they leave you in that room?

A. There was four chairs seting, but I disremember whether Charley Davis or Izell Chambers, but there was one of them there when I was brought in.

Q. How long was that from the time you was brought into that room until Mr. Maire left there?

A. Something like two or three hours, I guess, because it was around sunrise when I went into the room.

Q. Had you slept any that night, Walter?

A. No, sir. I was walked all night, not continually, but I didn't have no time to sleep except in short spaces of the night.

Q. Was there any bed in your cell that you were taken to when you were put in there by yourself that night?

A. Yes, sir.

Q. But you didn't sleep?

A. No, sir, didn't have time to sleep.

Q. When Mr. Maire came over there that morning you say it was around sunrise?

A. Yes, sir, I wouldn't say it was before or after, but it was around early morning, something like six o'clock, I remember it was red black in the east.

Q. Between daylight and sun up?

A. It was daylight all right.

Q. When Mr. Maire got there it was after daylight?

A. Yes, sir.

Q. When he came in who all was in the room when he came in?

A. It seems like to me, I am not sure, but I think Mr. Maire was already in the room when I came in there, but I [fol. 66] remember there was a little table set there and a typewriter on the table. I am not sure, but I know it was two or three different times I was there.

Q. How long did you sit there after you were first taken in there before they started to take the confession that last time?

A. How long?

Q. Yes.

A. It wasn't long because immediately after I was taken in they brought two more in and they begun to questions. Just a short space of time.

Q. What officers of the law were there; was the Sheriff there?

A. Yes, sir, he was there.

Q. Mr. J. T. Williams there?

A. Yes, sir.

Q. Who else was there at that time?

A. Mr. Walter Clark was there, Mr. Maire, the State's attorney that I know, and the deputy clerk, I don't know his name but he is clerk or reporter, he is sitting in a chair right over there, I don't know his name.

Q. You mean the court reporter?

A. Yes, sir.

Q. The one that took down what you said?

A. Yes, sir.

The Court: You mean Mr. Gordon?

Witness: I don't know his name.

The Court: You mean the man sitting over there at that table?

Witness: Yes, sir, he was sitting over there that morning. I didn't know his name, but I know his face.

Q. Why did you say to them that morning anything after you were brought into the room?

A. Because I was scared, I had been threatened for my life all night long, and I was told if I denied anything I had said or any questions they asked me I would be abused.

Q. Who told you that?

A. J. T. Williams.

Q. He was there in the room at that time?

A. Yes, sir.

Q. Were you represented by counsel from that time on?

A. No, sir. I wasn't represented. I had one appointed but he never did nothing but tell me to plead guilty.

Q. When were you taken into court after this Sunday morning?

[fol. 67] A. The day I was arranged (arraigned) I can't recall what time it was, but it was several days later:

Q. Now do you remember the day you were taken to court?

A. Yes, sir.

Q. When you went to court that day, did you see Captain Williams that day?

A. Yes, sir.

Q. He was in the court room?

A. He come to my cell the morning before I was taken down, he and Mr. Walter Clark.

Q. What did they say to you that time?

A. They asked me was I still going to stick to what I said and I said no. He told me if you go down there and try to change your statement in the court room, he says, "don't you know you won't live until the next morning, because the majority of the people in Pompano they are from Georgia, they believe in mob violence, they will lynch all the niggers." I says "they *they* have no right to lynch me," and he says "they will, and I will turn the keys over to them."

Q. Was he there in the court that morning?

A. Yes, sir.

Q. Did any of them say anything to you in the court room?

A. No, sir.

Q. Before you were taken in the court room did this attorney ever come to the jail to see you?

A. No, sir.

Q. Did you ever talk to the attorney before you went into the court room?

A. I didn't know I had one until I was taken down to be arranged (arraigned). I came down on the elevator I see a man in the elevator,—I saw him here today—he told me he was Mr. Mather, he told me he was my attorney appointed to represent me.

Q. How long was that in hours or minutes before you were finally brought to court to be arraigned?

A. About thirty minutes.

Q. What did he tell you?

A. He told me the sentiment of the people of Broward County was highly against me and the best thing I could do was to go down there and plead guilty. That's all he has ever told me since or before.

[fol. 68] Cross-examination.

By Mr. Maire:

Q. When did you first talk to Mr. Mather about your case?

A. I talked to him on the morning I was to be arranged.

Q. You know whether Mr. Mather knew at that time you were supposed to have made a confession?

A. No, sir, because I hadn't seen him before.

Q. Did he ask you about the confession you were supposed to have made?

A. No, sir.

Q. Mr. Mather ask you whether or not you had made a confession?

A. No, sir.

Q. You say you were arrested on the 14th day of May, was it?

A. At night, yes, sir.

Q. That was what date Sunday?

A. It was on Sunday night.

Q. That was the Sunday before this statement was made by you?

A. The statement was made the following Sunday morning.

Q. What first happened to you after you were put in jail; where were you taken?

A. Pardon me?

Q. Where were you taken when you were first arrested?

A. I was taken to Broward County jail.

Q. I believe you stated you were awakened by Mr. Goodrich tapping you on the feet with a club or something?

A. Yes, sir, something.

Q. Mr. Goodrich didn't hurt you when he did that?

A. No, sir.

Q. You are not trying to tell the jury or convey the impression there was any brutality involved in that?

A. No, sir.

Q. He just come along and tapped you on the bottom of the feet to wake you up?

A. Yes, sir, because it didn't hurt.

Q. Who else was present when you were arrested?

A. The ones I know were present was Mr. Bob Clark and Chief Maddox of Pompano.

Q. What did they do after they arrested you?

A. They took me out to the car.

Q. What did they say to you?

A. I asked them what was this about, and got up, what's all this about: they say "you know what it is about, and [fol. 69] don't let this mob get you" and told me to hurry and get out, so they handcuffed us—no, I wasn't handcuffed, the two boys I think was handcuffed.

Q. Who else did they have in the car; somebody in the car when you got there?

A. No, sir. They arrested me, told me to hurry to get out there, trotted me to the car, me and Jack Williamson, Izell Chambers and Claudie Mack.

Q. This is the fourth time you have testified in this case?

A. The third time.

Q. Didn't you testify in the hearing when Izell Chambers didn't plead guilty?

A. Yes, sir.

Q. And you testified in the hearing before Judge Tedder when there wasn't a jury?

A. Yes, sir.

Q. And you testified before Judge Tedder when there was a jury last February; that makes four times, doesn't it?

A. Yes, sir, four times.

Q. You have heard Jack testify every time in the case?

A. Yes, sir.

Q. And this is the first time you or Jack ever told the jury that the officers trotted you anywhere or told you anything about a mob when you were arrested?

A. If you look in my first statement that I give in this case I think you will find where I told I was trotted from the house to the car. I don't say I brought it up each and every time I made a statement.

Q. Are you swearing you ever did say that before?

A. I give the statement once before.

Q. Who to?

A. I know I told my attorney once.

Q. When did you first tell him that?

A. Well I give him that statement in Raiford I think.

Q. How does it happen this is the first time you ever told the jury about it?

A. There is quite a bit of things, quite naturally there is a lot of things was said and did that slip my remembrance at the time.

Q. This case has been in court three years, hasn't it?

A. Yes, sir.

[fol. 70] Q. You have had all that time to think about it?

A. I have had other things to think about, too.

Q. You have done a lot of thinking about this, haven't you?

A. Yes, sir.

Q. You are just adding that this time to what you said before?

A. It is true.

Q. It is true that you are adding it?

A. They did it.

Q. You never told another jury that until today?

A. I don't recall telling it before.

Q. When they first took you to Broward County jail where did they take you?

A. They took me up on the second floor.

Q. Did they take you to the sheriff's office?

A. I don't know. I don't know where the sheriff's office was.

Q. Did they lock you in the cell first?

A. No, sir, they brought me in the door, put me on the elevator and carried me up on the second floor.

Q. They didn't stop on the ground floor and question you down there?

A. No, sir.

Q. You say that was Sunday night?

A. Yes, sir.

Q. After they locked you up when was the next time they took you out?

A. They brought me down Monday evening.

Q. Who brought you down?

A. Mr. Marshall, the jailer.

Q. Where did they take you to?

A. Took me upstairs to this room where the bed was.

Q. Took you to that same room they took you the night the statements were taken down up there in Mr. Marshall's room?

A. Well, there is two little rooms, go through one that haven't got the bed in—no, sir, not the one the statement was taken down, because the one that has not got any bed in I had to go through, the one that has got the bed in it, it is on the same floor.

Q. You were arrested at the same time Jack was?

A. Yes, sir.

Q. Taken to jail together?

A. Yes, sir.

Q. You were both of you taken to the same place?

A. Yes, sir, Broward County jail.

[fol. 71] Q. I mean when you got to the court house were you both taken and locked up?

A. No, sir.

Q. What happened then?

A. I was locked up, that's what happened to me.

Q. What happened to Jack?

A. I don't know, I didn't see him no more.

Q. They took him one place and you another; is that right?

A. They took him some place, they didn't bring him up with me.

Q. Did he get in the elevator with you?

A. No, sir, I left him downstairs, I left him down where we come in.

Q. When was the first time they did anything they should not have done, like beating you?

A. Well, the first time was Monday night, the second time I was brought down they stamped my feet.

Q. Where did that happen?

A. That was in the room where I was when I was taken out of the bull ring and taken upstairs in the room where the bed was.

Q. Was it the same room you were taken into later where the statement was taken down?

A. No; sir.

Q. That was another room?

A. That was the little room just outside of this room where you had to go through it, in fact it is not a room, it is just like a lobby.

Q. You say you were arrested and placed in jail on the 14th day of May; is that right?

A. Yes, sir.

Q. The petition you had filed by counsel in this case—did you sign the petition in this case?

A. Yes, sir,

Q. It says the 13th day of May; is that a mistake?

A. That's a mistake; I was arrested on the 14th.

Q. When was the first time you saw Captain Williams?

A. Monday.

Q. When did you first see him?

A. Pardon me, I was wrong. The first time I saw him was the night I was arrested at my house.

Q. Did he do anything to you that night?

A. No, sir.

[fol. 72] Q. Just tell the jury now when you were first taken out of your cell and illtreated in any way. It is stated right on from the time you were arrested right up to the time your confession was taken.

A. I have already explained that.

Q. You haven't told every time?

A. I was taken out several times.

Q. Monday night was the first time; is that right?

A. Yes, sir, Monday night.

Q. Were you beaten any on Tuesday?

A. I don't say I was beat any time up until Saturday night, but I was struck several licks and my feet stamped; I didn't say I was beat every time, but I was threatened and struck, and said I was lying; I wasn't hit any licks not until the night of the 20th.

Q. You say you don't remember now of having been beat and abused until that Saturday night?

A. Yes, sir, I was tortured and abused, but I wasn't beat.

Q. Tell them how you were treated?

A. I was struck several times, and my feet was stamped all through the week each time I was brought down, excepting the first time.

Q. What is the difference between being struck and beaten?

A. Difference of being beaten and being struck?

Q. Yes.

A. Well, being struck is only one or two licks, but being beat is a continuous thing for something like five or ten minutes.

Q. Were you beaten continually?

A. No, sir, I wasn't beat continually.

Q. Is that you- signature on this petition, this is the one prepared by your counsel, McGill?

A. Yes, sir.

Q. You signed that?

A. That is my handwriting.

Q. It was read to you; you know what was in it?

A. Mailed to me, some of them were mailed. I didn't see this one.

Q. Well, you signed this one?

A. Yes, sir.

Q. You know the contents of it?

A. Yes, sir.

Q. This is the petition for writ of error coram nobis. What about this one here?

A. That's my handwriting.

[fol. 73] Q. Did you know you were swearing to it?

A. Well, I don't know whether I did or not, I never was in court before, and I went through a lot of things, I don't know what I went through.

Q. This was up at Raiford you signed it?

A. Yes, sir.

Q. You remember signing this? (Counsel reads.)

Mr. Catts: Object to the reading of the affidavit to the petitioner before the jury. He admits the signature is his signature, and he has just testified so far that he knows about swearing to it, and I don't see the materiality of reading the body of it.

The Court: Objection overruled.

Q. Did you sign this?

A. That's my handwriting, yes sir.

Q. Now you are swearing now that you were occasionally beaten and struck by these men; is that true?

A. I was continually struck any time I was brought down, struck or my feet stamped.

Q. Did you ever hear this before: "Your petitioners further represent that Walter Woodard, one of the petitioners herein was almost continuously beaten, kicked and bruised every night from the time he was arrested May 13, 1933, until May 21, 1933, when it is stated that he confessed to the crime therein charged against him." Is that true?

A. Yes, sir. That's true. I say it was continuous beating of about five or ten minutes, but I was continually struck and my feet stamped each time. You call it what you will.

Q. They didn't start on Monday morning and beat you until Sunday?

A. Each time I was brought down my feet was stamped, and sometimes they struck me two or three times.

Q. Did they beat you some on Monday or strike you and stamp your feet?

A. Yes, sir.

Q. Did they do that on Tuesday?

A. Every time I was brought down I was struck some or my feet stamped.

Q. Did they do that on Wednesday?

[fol. 74] A. No, I wasn't beat on Wednesday.

Q. Did they beat you Thursday?

A. Every day I was brought down, and every night.

Q. Did they beat you Friday?

A. That was continued each day and night, I was brought down.

Q. Did they do anything to you on Saturday before the confession was taken from you, in the day time?

A. I don't recall being brought down on Saturday until around dark Saturday night, the first part of the night.

Q. They didn't beat you then during the day on Saturday?

A. I don't recall being brought down until Saturday evening, or the first part of the night.

Q. Then you weren't continuously beaten, bruised and kicked on that day?

A. No, the times I wasn't brought down I wasn't beat.

Q. About what time did they first take you out of the bull pen on Saturday night, May the 20th?

A. Well, I didn't have any timepiece, I couldn't say definitely, but it was the early part of the night, around dark.

Q. Who took you out of the bull pen?

A. Mr. Marshall.

Q. Where were you taken that night?

A. I was taken up to the same room I have explained to the court.

Q. Who was there?

A. Captain J. T. Williams, Sheriff Walter Clark was present.

Q. Mr. Marshall?

A. Yes, sir.

Q. A crowd of other men there?

A. Sometimes there was other men, but the first time they were the only ones.

Q. What did they say or do to you that time?

A. Well it was only one talked to me that time.

Q. Did he do anything else but talk to you?

A. Not the first time, no, sir. He threatened to kill me, said I was lying.

Q. Did he step on your toes or hit you with a rubber hose or strike you the first time?

A. Not the first time, no, sir.

Q. Questioned you, and then did they take you back to your cell?

A. Yes, sir.

[fol. 45] Q. Did they take you out a second time?

A. Yes, sir.

Q. Who took you out the second time?

A. The same man, Mr. Marshall, the jailer.

Q. They carry you to the same room?

A. Yes, sir.

Q. Who was present that time?

A. The second time I was taken out was Captain J. T. Williams, Mr. Walter Clark, the Sheriff of the jail, and the jailer, Mr. Marshall.

Q. Was Mr. Maddox there?

A. He was there in the night but I don't think he was there the second time.

Q. Mr. Bob Clark?

A. No, sir, I didn't see him.

Q. Was anybody there the second time, except Sheriff Walter Clark, J. T. Williams and A. D. Marshall and yourself?

A. I don't recall, the second time.

Q. Now were you struck or beaten or abused any that time?

A. Yes, sir, I was struck.

Q. Who did that?

A. Captain J. T. Williams struck and threatened me, my feet stamped.

Q. Tie a rope around your neck the second time?

A. No, sir. I was threatened with a rope, but not the second time.

Q. Was it after the second time they took you out that they sent for me to come there?

A. After the second time I was moved from downstairs, the second time I was taken out from upstairs I had a rope around my neck.

Q. Did anybody do anything to you that time besides either Sheriff Clark or J. T. Williams or Mr. A. D. Marshall?

A. Mr. Walter Clark—I don't recall him hitting me.

Q. But he was there?

A. Yes, sir, he was there.

Q. Was anybody else there the second time?

A. The second time I was taken from upstairs, I was changed from upstairs to downstairs, Chief Maddox was there.

A. I am talking about Saturday night?

A. Yes, sir.

Q. Did you say there were some other men there then, the second time you were taken out?

A. The second time I was taken out I was taken out from downstairs there was just the three men present. I was taken out lots of times.

[fol. 76] Q. Was anybody present when you were taken out any time that night besides these three men and yourself until the time the confession was taken?

A. Yes, sir.

Q. When was that?

A. Well, after I was taken out the second time from downstairs on the night of the 20th, which was the early part of the night, I don't know what time, but the second time I was brought down, the second time I was taken out from upstairs there was other men present.

Q. There were other men present?

A. Yes, sir.

Q. You know about how many men were present?

A. No, sir; something like four or five.

Q. Did any of these other men do anything to you at that time?

A. Yes, sir, I was struck a lick or two by them.

Q. Struck by some of the other men?

A. Yes, sir, I was beat by some of them.

Q. Did you say whether or not Mr. Maddox was there?

A. Yes, sir, he was there when I had the rope around my neck.

Q. About what time?

A. I don't know what time.

Q. Was Bob Clark there then?

A. No, sir I don't recall seeing him.

Q. You hadn't made any confession or any statement of any kind until Saturday night?

A. No, sir.

Q. And yet you claim you had been beat and struck?

A. Yes, sir, and under threats, torture and threats.

Q. Was your life threatened before that Saturday night?

A. Yes, sir.

Q. Still didn't make a confession?

A. No, sir.

Q. Did they do anything more that Saturday night to make you confess?

A. Well I was beat twice that Saturday night.

Q. Where were you beat?

A. I was beat in the same room.

Q. I mean upon what part of your body?

A. I was struck all over the body, on the head and body and even on the feet, because I didn't have any shoes on.

[fol. 77] Q. What were you struck on the head with?

A. With a rubber hose, bicycle tire, loaded, and black jack.

Q. Did it cut the skin or anything like that?

A. It was sore.

Q. Did it bleed?

A. No, I only bled at one place and that's when I was struck on the side.

Q. That's when you were struck on the side?

A. Yes, sir.

Q. What did you mean by swearing to this in your petition then: "Captain Williams, a man weighing about two hundred fifty pounds, struck petitioner in the jaw bringing blood from it in profusion"?

A. I don't know what you mean because I am not educated.

Q. You said you signed the petition and swore to it. That's the paragraph about Walter Woodard; you are Walter Woodard, aren't you?

A. Yes, sir.

Q. You don't remember swearing to that?

A. I don't say I didn't swear.

Q. See if you ever heard this before: "Upon entering the room, therein he saw some eight or nine men. Some had pistols, others black-jacks, clubs and a loaded rubber hose. Your petitioner, Walter Woodard had scarcely seated himself before they began beating on him. Captain Williams, a man weighing about two hundred fifty pounds, struck petitioner in the jaw bringing blood from it in profusion." You ever hear that before?

A. Ever hear that before?

Q. Yes, you ever hear what I have just read you?

A. I don't recall.

Q. But you swore to it without hearing it?

A. No, sir, I couldn't do that.

Q. Is it true or not true?

A. I was only beat once and brought blood and that was on my side.

Q. Then if this petition says Captain Williams struck you on the jaw and brought blood from it in profusion, you are now swearing to the jury that it is not true?

A. That is not true?

Q. Yes. Is it or isn't it?

A. No, sir, I bled some from the nose.

[fol. 78] Q. From your jaw?

A. No, sir.

Q. Then that is a mistake, isn't it?

A. Yes, sir.

Q. When were you hit on the side with that club that you just told the jury?

A. Saturday night.

Q. That bled, did it?

A. Yes, sir.

Q. Did it bleed through your clothes?

A. Yes, sir.

Q. Was that before or after you had seen me the first time?

A. It was after you left the room.

Q. Now, when you were brought into my office, you will remember I asked you if you had been beaten in any way?

Q. Your Honor, I don't remember going to your office, I remember your coming into the room where I was.

Q. You still contend it wasn't my office, but wherever it was you first saw me, did I ask you whether you had been beaten?

A. No, sir. You asked Captain Williams where was the boy that was ready to tell us something, that's all I remember.

Q. Don't you remember that I asked you whether or not these officers had pounded you in any way to make you talk? Don't you know I told you that if they had—I made them all step out of the room—and I told you this, "now you are just here with me, I am the State's attorney; it is my duty to protect you if you have been treated wrong, if you tell me you have I will have the Judge take you to another jail to protect you"?

A. No, sir, I don't.

Q. You deny I told you that?

A. Yes, sir.

Q. What was the reason that you finally confessed?

A. I weakened just like you or any other human being going under the torture and strain.

Q. Didn't you tell the jury the reason you confessed was they told you that Charlie Davis had already told about it?

A. No, sir, I told the jury that they told me Jack Williamson, but that didn't make me confess.

Q. Is that the reason you confessed, because they told you about Jack?

A. No, sir.

[fol. 79] Q. But you said that was the reason?

A. I broke down with the mental strain just like any other person.

Q. You told this jury that the reason was because Jack Williamson confessed, didn't you?

A. No, sir, I told you they told me that I had to confess because Jack Williamson had already come across.

Q. And it was after they told you that you did confess?

A. Yes, sir, a long time after.

Q. How long after?

A. It was along toward day, and it was shortly after you went away from there.

Q. Don't you know when you were brought in the room at 6:30 o'clock Sunday morning, when all these men were present, and all these men were there ready to take the statement, didn't I at that time, in the presence of all of them, the police officers and other witnesses, ask whether you had been abused and mistreated?

A. I don't remember.

Q. You remember this: I said "you want to tell about this occasion when Mr. Darcey was clubbed Saturday night, May 13, at Pompano"; you said "yes, sir." I said: "has anybody promised you any reward or anything to get you to talk"? And you said "No, sir". I said "you just want to talk because you want to tell the truth about it". And you said "Yes, sir." Is that true or untrue?

A. I guess I said that because I made the confession, but I don't know just what any one said at the time because I never took it down.

Q. Did I ask you these questions and did you make those answers?

A. I don't recall.

Q. You are not denying it, are you?

A. No, sir, I am not denying it.

Q. Did you testify the man that wore glasses that was sitting here this morning, was present when this confession was taken?

A. Yes, sir.

[fol. 80] Q. Do you see that man in the court room now?

A. Yes, sir.

Q. Where?

A. Sitting right over there by the table.

Q. You know what his name is?

A. No, sir.

Q. If this man's name is Mr. Charles H. Gordon, are you now swearing that Mr. Charles H. Gordon was present when you made the confession?

A. That's the man that was present. I don't know his name.

Q. This is the man that was present?

A. Yes, sir.

Q. What lawyer represented you when you were tried?

A. When I was tried?

A. Well, when you pleaded guilty; did you plead guilty?

A. Yes, sir.

Q. What lawyer represented you?

A. I don't know his name.

Q. Mr. Mather or Mr. Griffis?

A. No, sir. Mr. Mather was appointed.

Q. But did he represent you?

A. No, sir.

Q. Didn't Judge Tedder appoint him to look after your case?

A. I didn't know I had a lawyer.

Q. Weren't you present in the court room when Judge Tedder did appoint you a lawyer?

A. No, sir.

Mr. Catts: The record in this case shows there was no lawyer appointed.

The Court: The record will have to speak for itself, whatever it shows.

Q. You remember when Izell Chambers went to trial, don't you?

A. Yes, sir.

Q. You testified in that case, didn't you?

A. Yes, sir.

Q. And you were a State's witness?

A. Yes, sir.

Q. Put up there by me as State Attorney?

A. Yes, sir.

Q. Do you remember Judge Tedder advising you of your rights before you made any statement?

A. Yes, sir.

Q. He did, didn't he?

A. Yes, sir.

Q. You testified then and admitted all of your testimony against Izell Chambers practically the same as that put in [fol. 81] the confession?

A. Well I did it under threats.

Q. You weren't threatened in the court room?

A. No, I was threatened before I come in the court room.

Q. Judge Tedder advised you of your rights?

A. Yes, sir.

Q. Hadn't Mr. Mather or Mr. Griffis told you that?

A. No, sir.

Q. Did any lawyer ever talk to you about this case at all?

A. Told me to plead guilty, the one what was appointed, ten minutes before I pled guilty.

Q. How long was it after this confession was made before Izell Chambers was tried, do you remember?

A. No, sir, I don't recall.

Q. It was several days?

A. Quite a bit of days, several days.

Q. Were you threatened any between this confession and the time you were brought down in the court room?

A. Yes, sir.

Q. Who threatened you?

A. Captain J. T. Williams.

Q. Were you beaten any?

A. No, sir.

Q. When did he threaten you?

A. Well he come up one day, I think Jack Williamson sent for him, he come in, he and Sheriff Walter Clark, and Izell Chambers and Jack Williamson and myself was taken out and taken into this same room where the confession was taken, and he talked with us one by one that day, around twelve o'clock, and he told me, Jack and Izell just what would be the consequences if we went before the jury and changed our statements.

Q. When you testified there in the case against Izell Chambers in open court before Judge Tedder, and told all these facts, nobody was intimidating you or beating you at that time?

A. No, sir, but they had.

Q. Now did your lawyer ever ask you anything about this confession?

A. No, sir.

Q. Never did?

A. No.

Q. Did you ever tell your lawyer, or any one that represented to be your lawyer, told you they were your lawyer, that you had — beat and coerced and promised anything to make this confession?

[fol. 82] A. No, sir, I was never talked to, the only thing he told me, I had about ten minutes talk with him before I was brought back before the Judge, and he instructed me to plead guilty, and get out of the court room as soon as possible because the sentiment of the people of Broward County was against us.

Q. Did he ask you anything about this confession?

A. No, sir.

Q. You didn't have an opportunity to tell him; is that right?

A. Yes, sir.

Mr. Catts: May it please the Court, in this case the record shows Izell Chambers was tried at a date subsequent to the date at which these other defendants entered a plea of guilty, and a date subsequent to which the alleged confessions were made by the petitioners. Move to strike from the consideration of this jury any testimony about anything that happened at the trial of Izell Chambers.

The Court: Motion denied. It may not be in issue, but it may be admissible to test the credibility of the witness.

Q. Walter, the first time you talked to me in this case about the facts that happened at the time you were arrested until the alleged confession was made, did you at that time tell me about the information that was conveyed to you by the officers about the mob, and that you were caused to run; did you tell me that the first time you ever talked to me about it?

A. Yes, sir.

Q. I believe you said that all of the testimony that you gave in the confession itself was made by you only through

fear that you had of Captain Williams and the other officers that were present and what they inflicted upon you?

A. Yes, sir.

Q. Through your fear of further punishment or bodily violence?

A. Yes, sir.

Q. The petition that was read to you, that was drawn up by your lawyer?

A. Yes, sir.

Q. You naturally would sign anything your lawyer said you should sign and swear to it?

A. Yes, sir.

[fol. 83] Q. You remember reading carefully the petition, or do you now remember what was in the petition at the time you signed it?

A. No, sir, I didn't read them, they was read by other parties.

Q. Read to you?

A. Yes, sir.

Q. The matters set forth in there are substantially what happened to you?

A. Yes, sir.

Q. Gained by your attorney from information you imparted to him?

A. Yes, sir.

Q. Well you did not bleed when you were struck on the jaw, but you did bleed when you were struck in the side?

A. Yes, sir.

(Short recess.)

Redirect examination.

By Mr. Catts:

Q. Did you at any time, other than the one time you have testified to already, talk to Mr. Mather, the man whom you say was representing you in that case?

A. No, sir, not before or since.

Q. In the elevator that time, was the only time you ever talked to him?

A. The only time.

Q. Either before or after the trial?

A. On the elevator about ten minutes until we got in the court room, we went off the elevator into the jury box in about ten minutes.

Q. That's the only time you talked to him?

A. Yes, sir.

*(Witness excused.)

[fol. 84] CHARLIE DAVIS, being first duly sworn, testified on behalf of the petitioners as follows:

Direct examination.

By Mr. Catts:

Q. Your name is Charlie Davis?

A. Yes, sir.

Q. You are one of the petitioners in this case, Charlie?

A. Yes, sir.

Q. Where did you live about May 11, 12 and 13 and 14, 1933?

A. In Broward County.

Q. In what part of Broward County?

A. In a little small place called Pompano.

Q. What were you doing in Pompano at the time?

A. Well, I was working in a store in the colored section.

Q. Do you remember the night, Saturday night, May 13, 1933?

A. Yes, sir, I remember it pretty well.

Q. You remember being arrested that night?

A. Yes, sir, I was arrested about 9.30, between 9.30 and ten o'clock.

Q. Where were you arrested?

— I was arrested where I was rooming with a lady by the name of Mamie McNeal.

Q. Where have you been since the time you were arrested, and that date; been in jail since that time?

A. Yes, sir.

Q. What day of the week was it?

A. It was Saturday night.

Q. Who arrested you?

A. Chief Maddox of Pompano.

Q. Was anybody with him at the time you were arrested?

A. There was some people with him, I saw some people but when he arrested me he arrested me right himself.

Q. He came into the room where you were?

A. Yes, sir. I was getting ready to go to bed. I saw a light coming toward the window, the window was half open, and some of the boys said a spook was hanging around there, so I thought some of them was trying to scare me; so when I went to the door he walked in, he come in and looked around a while, so I asked him what did he want, he didn't say nothing; he told me to stand back, so I stood back and he looked around and searched around as long as he wanted to, and he [fol. 85] asked where I had been. At that time I just had left the store and bought some toys. He looked around and went back again into the room, there was two boys two beds, a large bed and a small one. So he told me to come and go with him.

Q. Where did he take you?

A. He took me to the small jail up at Pompano.

Q. You say that was around 9 or 9:30?

A. Between 9:30 and 10 o'clock.

Q. On May 13, 1933?

A. Yes, sir.

Q. Was there any one else in the jail at that time?

A. Yes, sir, there was some more people there; I didn't know many people there, I hadn't been there very long. There was some more in there but I was in a cell by myself.

Q. Put in a cell by yourself?

A. Yes, sir.

Q. How long did you stay in Pompano jail?

A. Until Sunday morning. I was taken out of the jail Sunday morning by deputy Sheriff Bob Clark. I didn't know him at the time; afterwards I knew him as Bob Clark.

Q. By yourself?

A. He took me and a fellow by the name of Carnell Rone.

Q. Took you from the Pompano jail to Broward County jail?

A. Yes, sir. We was handcuffed together, and this boy's father was in the car ahead of us with the fellow by the name of Goodrich.

Q. Bob Clark was the only officer in the car with you?

A. He was the only one with us two.

Q. Now during the time you were in the Pompano jail did any officer of the law or any other person come in the jail to see you?

A. Yes, sir, long about 12 o'clock, somewhere around there, I laid down—there wasn't any mattress in the place, it was a steel bunk, it had two bunks in the cell, so I sit on the

bunk, I got sleepy and laid down on the steel bunk, so around 1:30, or about that time, I didn't have any timepiece, I feel some one kicking me; so I woke up and turned over, and [fol. 86] when I turned over, a great big large man was standing with his feet crossed, so I went to get up and he asked me some thing—I hadn't woke up good—he asked me something. I told him I didn't know what he was talking about. I was trying to ask him what they arrested me for. So he hauled off and hit me and knocked me clean back under this bunk, and where the steel was it hit my head right up here. He had something in his hand, something about this long (indicating). I couldn't make out what this was because he knocked me out, and when I come to, before I could get to myself very good he asked me some more questions, I told him I couldn't answer the questions, I hadn't opened my eyes.

Q. Where did your head strike, what did it strike against?

A. The first time I been in jail at all, I had never looked under where I hit it, whether it was steel or brick, it was one of the two.

Q. Where did it hit you?

A. Hit me right here. I have got a scar there.

Q. Scar there now?

A. Yes, sir.

Q. How did he hit you on the back of your head?

A. He hit me in front, but my head hit back.

Q. You say you were knocked out?

A. Yes, sir.

Q. Knocked out completely?

A. Yes, sir.

Q. You didn't know anything?

A. I didn't know anything for a while.

Q. Go ahead and tell what you remember?

A. This man, I didn't know who he was, so he asked me some questions, so I told him I couldn't answer the questions, I didn't know what it was all about. He turned to one fellow and says "that's about all you know", and turned and walked out. There was a bunch of them besides him around, a dozen at least. So he turned and walked out the door and he shut the cell door, and after he shut the door they stood and looked at me a while and then go on away.

Q. Right there, do you know who that gentleman was that came into the cell where you were and struck you that night?

A. I learned his name, he told me his name was Captain [fol. 87] Williams.

Q. Was anybody else with him that night that you now recognize?

A. You mean the 13th?

Q. That Saturday night when Captain Williams came to you there in the cell and knocked you out?

A. Yes, sir, there was around a dozen in all.

Q. Do you know now who any of these gentlemen were?

A. One fellow I learned afterwards was a secretary, a fellow they called him Mack, was a trusty secretary.

Q. Was any other officer of the law there at that time; was Chief Maddox there?

A. I think it was Walter Clark and a fellow that kind of favored him, I think it was him, and Chief Maddox was there.

Q. You saw him that night and recognize him now as being one of the gentlemen that were there that night?

A. Yes, sir.

Q. Nothing else happened to you that night after they left?

A. No, sir, no more than I heard them bringing in several people, they were beating some people, I don't know who they were.

Q. Had anybody told you up to this time what you were being arrested for?

A. No, sir.

Q. Go ahead and tell what happened the next morning, if anything did happen?

A. The next morning was Sunday morning; they took me down about 6:30, the sun was just beginning to get up, they took me down to Fort Lauderdale jail, me and a fellow called Rone and his father. I was in a roadster tied to him and this boy was behind in the car with Mr. Bob Clark; so he had taken me and his father and put us in the same cell of the bull pen, that's where he put us. I had blood on me and I wanted to take a bath, and when I come back all the fellows ask me, some of the fellows in the bull pen ask me when did I come home, they ask me was I with these folks that they kept bringing in and wanted to know from me what happened, the fellows in the bull pen, what they call the Kangaroo Court. So they went and brought this man, Mr. Rone, this boy's father, and I told them I would rather take the

whipping, I thought he was too old for such things. They didn't bother me no more that day.

[fol. 88] Q. Go ahead and tell the court and jury the first time the officers came to talk to you again?

A. The next time they came to see me was on Monday afternoon—well that Saturday night, I was arrested on the 13th, I didn't know what had happened until that Monday, when Captain Mr. Wright, I think he was a road patrolman, he came and got me in the bull pen and took me and carried me up on another floor. I think, in fact I know Mr. Marshall got me first and carried me up on the other floor. Mr. Wright came in and got me and brought me down in the kitchen and he talked with me for a while and he asked me where I was Saturday night, and I explained to him as best I could. He told me, he said, "don't you know what has happened?" I asked him; I asked him the question what had happened and he told me something, but anyway he told me to come go with him, and I went with him down in the sheriff's office on the bottom floor, and a man sitting down there, I don't know the man's name, when I walked in there he he asked come fellow if he knew me. I think Izell Chambers was in the room and Walter Woodward, and there might have been some more in there; so this Mack Little, I never had seen him before in my life, and he said "Yes, I know him", he had a knot over one eye, he said "yes, I know him", and one of the fellows told him he had been telling stories that were untrue, I don't know when, but he asked me did I know him, and I said "no." He asked me did I know the other fellows, I told him "no", and he took and carried me back up in the cell.

Q. Who took you?

A. Virgil Wright, I think his name is.

Q. What officers were present at that hearing: was Captain Williams there at that hearing?

A. I hadn't seen Captain Williams since the night he beat me until I think it was Tuesday or Wednesday.

Q. He wasn't down there that time?

A. No, I don't remember seeing him. Mr. Walter Clark was in the office the-, it was a kind of a stout fellow.

Q. Mr. Walter Wright?

A. Yes, sir.

[fol. 89] Q. Were you ever mistreated in the jail other than this first night up there at Pompano?

A. Mr. J. T. Williams he hit me and kicked me out of the chair one time.

Q. When what day of the week was that?

A. This was along later in the week, I don't remember the date or the day.

Q. Were you kept in the bull pen all that week, or were you put in a private cell?

A. I was kept in the bull pen a good while.

Q. You remember what day they took you out of the bull pen and put you in a cell by yourself?

A. It was on Monday.

Q. Monday?

A. Yes, sir.

Q. You were arrested on Saturday?

A. Yes, sir, Saturday night. On Monday afternoon he told me what had happened, they had arrested so many people about it—I don't know the fellow's name, but I remembered his name afterwards—so he told me there was a man got hurt down there on Saturday night, I believe he said.

Q. Go ahead and tell the court and jury what time it was that you were put in this cell by yourself; was it Monday, or what day?

A. Yes, sir, it was Monday, I was put in the cell around 11.30 or 12 o'clock.

Q. In the day time?

A. Yes, sir.

Q. How long were you kept in the cell by yourself?

A. I was kept in there until around one or 1.30, somewhere around there when Mr. Virgil Wright came in and took me out of there.

Q. Was that the time he took you down in the kitchen?

A. Yes, sir, he took me in the kitchen and talked with me and I explained to him where I had been.

Q. When they got through talking to you down there, with this boy who said he knew you, who had a knot over the eye, did they take you back to a cell by yourself?

A. Yes, sir.

Q. And how long were you there that time in a cell by yourself?

A. I stayed there until that same afternoon when they come and got me and brought me out and carried me back into the bull pen, they took me back in the bull pen.

[fol. 90] Q. Tell the court and jury the first time that it happened, if you know, when it was that any of them struck you or abused you in Pompano jail?

A. I don't understand.

Q. I mean in the Fort Lauderdale jail?

A. That Wednesday or Tuesday, Captain Williams and some other officer; I didn't know who it was, but I know Captain Williams, he hit me, and another fellow hit me in the same place, I don't know who the other fellow is that hit me in the same place twice, and him and two or three more fellows came up and got me in the day time and carried me to Pompano.

Q. All the people that went with you to Pompano, were they all sheriffs, did they all have guns?

A. Yes, sir, if I don't make no mistake they all had guns.

Q. Did Captain Williams?

A. Yes, sir, I was double handcuffed to him.

Q. Did they beat you or strike you at Pompano?

A. No, sir, they didn't beat me that time.

Q. How long did they keep you at Pompano?

A. He kept me down there about, I reckon about 30 or 45 minutes.

Q. Then what did he do with you?

A. He brought me back.

Q. Did he threaten you or do anything to you at Pompano?

A. No, sir. Captain Williams told me to wash my clothes.

Q. When he brought you back to jail where did he put you?

A. Put me in the bull pen.

Q. And how long did you stay in the bull pen that time before they took you out again?

A. They took me out again that night.

Q. Where did they take you this time?

A. They took me out and questioned me.

Q. What room did they take you to?

A. I think it was the 4th floor of the jail down there in the jailer's quarters, where a bed and radio was at.

Q. Who was there that time?

A. Mr. Marshall, the jailer, Captain Williams, and Mr. Walter Clark was there.

Q. Did anybody strike you there or abuse you that time? Just tell the court everything.

[fol. 91] A. They asked me some questions about Jack Williamson and Izell Chambers, asked me did I know them,

I told them no I never know them, I never see them before until I see them in jail here. Captain Williams told me I was lying, told me I was telling something untrue. I told him I didn't know anything about these boys at all until I see them in jail. He told me I was going to know something before it was over, so they took me back to the cell. Well I heard them pick out somebody else. Then they took me down to the bull pen, and they took me out again later in the night, the same night, and Mr. Sheriff Walter Clark was standing up there and Captain Williams was sitting up on the table, Mr. Marshall I believe he sat down on the chair. That time Mr. Walter Clark went somewhere back in the corner there for something, anyhow he asked me again did I know these boys and I told him I didn't know any of them, and he knocked me off the chair and kicked me. He told me, he said a mob was after us four negroes, anyhow he said that he would shoot me and make me jump out the window and say I tried to run. He said he was going to give me to the mob if I didn't tell him what he wanted to know. I told him I didn't know anything to tell him. He said I was going to know something before it was over with. I told him I wasn't going to tell anything untrue on myself; I had done nothing; and he give me some licks that hurt me, and he hurt me when he beat me the night before, that's when he told me, he say he hadn't started; he hit me one time with a black jack. That time Mr. Walter Clark came back up there where we was and he laid the gun on the table, and I seen this black jack in his hand, and the gun, I don't know whether that's what he hit me with that Saturday night, but he laid his gun on the table, so he told me, he say I wouldn't be living until some length of time if I didn't do what he wanted me to do. So he told the jailer to take me back downstairs, he would see me later, and some one else. The next time they took me out was Thursday, they took me out on Thursday and I see Jack Williamson; I didn't know him at the time. A man asked me didn't I know him, I told him I didn't know him. It seems like Jack had had [fol. 92] some rough treatment when I looked at him, seemed like he had been through something what I had been through. So Jack pointed out me and told him he knowed me. I told him I didn't know anything about Jack, the first time I see him. Well after then Jack, I forget exactly when it was, Jack tried to straighten it out, he told me he told a story,

he was scared and frightened and beaten up, he was half insane. He didn't know anything about me.

Q. They took you out on Thursday; did they take you out any Friday?

A. They take me back down to where I was at, I reckon about an hour, and took me back up there again, I think it was the same date if I don't make no mistake as to the time, and they questioned quite a bit, they took me and Claudie Mack—I know him because I saw him in jail there—so they asked which one of you boys they call Kid; so Claudie told them they called him Kid sometimes, but Claudie didn't know my name and I didn't know his name at the time, but I been by the bull pen and heard them call him Kid. So he looked at Claudie and he looked at me, he says "one of you Kids I want, I want both of you." So they kept Claudie up there, then the man told them to take him on out, and they kept me up there. At the same time they brought Walter Woodward in, if I don't make no mistake, asked him did he know me—they asked me before he came in, told me what they were going to do, I told them they couldn't do any more than go ahead and kill me, because I couldn't hardly see my head was hurting so bad at the time. They asked Walter did he know me, he said no he didn't know me. They asked me again did I know him, I told them no. I didn't see him no more after I saw him down in the bull pen, where he told me his feet was hurting him, the first time I see him. Captain Williams say "you negroes know something, you going to tell us something," so I told him I didn't have nothing to tell him no more than what I have said. He stopped a while and looked at us and cursed and used bad words and [fol. 93] everything, profane language, and from then on I was taken out, but not like I was Saturday night, I think it was somewhere around the 20th or 21st of May, 1933.

Q. What happened to you that night, tell the jury everything that you can remember that happened to you on Saturday night; that's the week following the Saturday on which you were arrested?

A. That man told me, he took me in there, he told me he says, "do you know who I am?" He is a pretty large man. He asked me did I know who he was, I told him no, sir, I never see him before until he come in there that night and beat me up. He stopped me right then and told me not to say that no more. I didn't say it no more either. He says him name is Captain Williams, he was foreman of a chain

gang camp, and nobody excuses his word. I told him I wasn't trying to excuse his word, I was telling the truth about myself and where I was and everything. I told him I didn't even know what had happened until Monday afternoon. That's the same night that this other fellow hit me right in the same place I was hit before by Captain Williams kicking me. I don't know who the other fellow was. He says he was going to take me out on the west Dixie, he said quite a few things, I don't remember all the things he did say, but I know he kicked me and this other fellow hit me in the same place I was hit before with a rubber hose. So I was feeling pretty bad, I would say anything he wanted me to say if he didn't kill me. This was long about when this happened, was long about Sunday morning some time; he was taking us up and down and grilling us, and so he took me and had me on a bench with somebody else, I don't know who they was, I didn't try to find out who they was. I didn't sleep at all that Saturday night; I slept about three hours Sunday.

Q. How many times did they take you out Saturday night?

A. I was taken out all the time, I was taken out, I counted them, five.

Q. When you were taken out were you taken to some other part of the jail?

A. Yes, sir, I was taken in—I wasn't taken downstairs at [fol. 94]—all, I was taken up in the jailer's quarters.

Q. In the Broward County court house?

A. Yes, sir.

Q. And who were the officers present there when you were taken up?

A. Mr. Walter Clark was present, I remember three times I see Mr. Walter Clark, the other two times I didn't see him, and this J. T. Williams, he was the man that did the biggest part of the beating.

Q. He was there?

A. Yes, sir.

Q. Who else was there besides Walter Clark and Captain Williams?

A. And the jailer.

Q. The jailer was there?

A. Yes, sir, and once or twice I saw Mr. Goodrich.

Q. Well did you see any people around there that you didn't know?

A. Yes, sir, I see some, but not every time I went up there.

Q. That night were you beaten on that Saturday night or struck any time or mistreated by any officer?

A. Yes, sir, by Captain Williams.

Q. On what occasion, the first time, or second time or third time or fourth time, or when, tell the jury what they did to you on that night, or did anything happen to you, any mistreatment, tell the jury just what happened to you.

A. Captain Williams hit me with a club, I think it was, that night, in my side; I have got the scar right here. I remember he hit me; he tried to hit my head but I ducked out of the way and I dodged a little bit and he hit my side when I stooped over, and I think that was three or four times, I disremember now, but it was Saturday night, and after this other fellow had hit me the first night I was arrested, and I told him after he hit me, I told him I would say anything he wanted me to if he didn't kill me.

Q. Did they say anything about a rope that night; did you see a rope?

A. Yes, sir, I see a rope. He started to put a rope around my neck, but he changed his mind because some one else came in there, I don't know why.

[fol. 95] Q. What did he say?

A. He was going to string me up.

Q. What did he say?

A. He told me he was going to string me up like he done some other folks that was in jail like I was, he told he done some one, I don't know the name, but some one came in there and told him not to do that.

Q. Did anybody take up for you, any of the officers, for your mistreatment?

A. No, sir.

Q. Say anything to you about jumping out the window?

A. Yes, sir, he told me he was going to make me jump out the window. He told me I was going to be some kind of a negro, I forget the expression he made, he told me he was going to get his gun and lay it on the table and make me jump out the window and say I tried to jump out to run away from up there at the jailer's quarters.

Q. This was on the fourth floor?

A. I reckon it was the fourth or fifth floor.

Q. Did he tell you he was going to shoot you?

A. He says he was going to shoot me if I didn't jump, would say I tried to grab the gun and shoot him with it.

Q. How long did that treatment keep up with you that night?

A. He kept me going—I was threatened all night.

Q. Saturday night?

A. I didn't sleep all that Saturday night at all. I didn't get no relaxed until Mr. Maire came, he said he was the prosecuting attorney; I had never seen him until he come over there the first time and he tore up the paper, he said if they gets something—

Q. Did you see the State attorney when he came over the first time?

A. Yes, sir.

Q. Did he talk to you?

A. I disremember if he talked to me; I see the one they said was the State attorney.

Q. What did you hear him say then?

A. He was talking with the other officials, and that's the time when he tore up this paper. That's the paper where Walter Woodward was telling about when he was on the stand, that was the same time. If I don't make no mistake the prosecuting attorney came over twice.

[fol. 96] Q. That was the first time?

A. Yes, sir.

Q. Well did they do anything to you after the prosecuting attorney was over there the first time, before he came the second time; did they take you out any more?

A. Yes, sir, I got one more lick, Captain Williams hit me one more time after the prosecuting attorney left.

Q. What did Captain Williams tell you about the confession?

A. He told me I was telling things untrue to him, and I said I was doing no such thing; and he said if I didn't say what he wanted me to say I wouldn't see daylight the next morning, or I wouldn't see the sun go down.

Q. When he told you that did you tell him what he wanted you to say?

A. I told him I would say just what he wanted me to say if he wouldn't kill me or give me to the mob that he said was out there, he started to hit me again and I told him that.

Q. Then you told him you would say what he wanted you to say?

A. I told him I would say what he wanted me to say.

Q. Did he send for the State attorney again?

A. Yes, sir.

Q. You know the State attorney now?

A. Yes, sir, I know him now when I see him. He sits over there with a brown suit on.

Q. Where were you when the State attorney came over that morning—what time did he come over the last time?

A. The last time he came over?

Q. That Sunday morning?

A. I don't know what time.

Q. Before daylight?

A. It seems to me the first time was very early but the last time it wasn't so early.

Q. You know whether it was daylight or dark when he came over the last time?

A. The last time he come over there I know it was daylight.

Q. At that time when he came over there where were you?

A. I was sitting in a chair.

Q. In what room in the jail?

A. On the last floor of the jail, I don't know whether third or fourth.

Q. Who else was there?

A. Well there was other boys.

[fol. 97] Q. What other boys; these boys here?

A. Jack Williamson, Walter Woodward and Izell Chambers, we was all sitting around on chairs when he came.

Q. What did Captain Williams say to you before he came in?

A. He gave us his opinion of everything he wants us to say.

Q. Did you say then at that time what he wanted you to say?

A. I told him I would say what he wanted me to say.

Q. Did you say in the presence of Mr. Maire what he wanted you to say?

A. No, sir, I never said anything.

Q. Well you did say some things in the presence of Mr. Maire?

A. I don't remember saying anything, I tried to tell that man how I was beat and everything, but I didn't say anything the first time; I tried to do that. I remember his saying some word, he spoke everything about he being responsible—

Q. You did make a confession there that morning, didn't you, of some kind?

A. Yes, sir.

Q. Why did you make the confession?

A. I made it because I thought that was just about the last of me, because he told me if I didn't do it he was going to take me out on the street, he said he was going to give me to the mob or kill me himself, and I was afraid.

Q. You were really afraid of him?

A. Yes, sir, he had done enough to me to be afraid, he was a large man and I know that he would do what he say, at least I thought he would; I had pains right then from what he had done to me already; I was hurt so bad I couldn't hardly see.

Q. Did you sleep any that night?

A. No, sir.

Q. After they left the next morning did you sleep any that day?

A. On Sunday I slept about three hours.

Q. Now were you taken over to court later on to enter a plea or be arraigned?

A. Yes, sir, I was taken down to court to be arraigned, I don't remember the date. I had told him I would say what he wanted me to say, I said I will plead guilty to everything, and so when I got down there I wouldn't plead guilty.

[fol. 98] Q. You pled not guilty?

A. I didn't plead guilty. I didn't do what he wanted me to do.

Q. What happened to you after that time, after you were taken back to jail?

A. Up until the time just before we was taken down I told him that I would plead guilty to what he wanted me to say. Well after then I got to thinking I hadn't done nothing and I know I was telling something untrue on myself; I don't know about the other boys, and so I got thinking about it, and I told him I didn't think I wanted to do that, I told him I wouldn't tell an untruth on myself, so it was one time we was taken down there—

Q. You were taken down there the first time before the Judge and before Mr. Maire; you know where the court room is, don't you?

A. Yes, sir.

Q. You say you didn't do what he wanted you to, you wouldn't plead guilty?

A. No, sir.

Q. Now were you taken back to jail after that time, after you were in the court room, did they take you back to jail?

A. Yes, sir, they took me back to jail.

Q. After you got back to jail did you at any time after that see Mr. Williams again?

A. Yes, sir, I saw him, and he was the onliest man I see.

Q. Tell the Court and jury what happened to you that time?

A. I see him again; at the time he hit me.

Q. Where were you at that time?

A. When he hit me the jailer was taking me up in the room where the radio and bed was. I didn't see nobody but him, I didn't see no one. I got off the elevator, I didn't see nobody but Captain Williams; well he hit me so hard, he was mad because I didn't do that, so he hit me so hard—I didn't see no one else there, I didn't see no one but him, and I told him I would say what he wanted me to say again, and so when I told him I would say it he told me he was satisfied I would say it. He told me lots of things, but I don't remember what he told me.

Q. Did he tell you he wanted you to plead guilty, and did [fol. 99] you tell him you would plead guilty?

A. Yes, sir, I told him I would.

Q. Did you tell your lawyer you would plead guilty?

A. I didn't have any lawyer.

Q. Did any lawyer ever talk to you about your case?

A. The morning I was brought down before the Judge to be sentenced.

Q. The time you were taken over in the court the first time were all these other boys over in court that time?

A. Yes, sir.

Q. That was when you wouldn't plead guilty?

A. Yes, sir.

Q. Did any of them plead guilty at the time when you wouldn't plead guilty?

A. Yes, sir, I think so, I don't recall but I think so.

Q. You think some of them did the first time?

A. Yes, sir. I didn't know these boys very well. I think so, I think they did. I didn't plead guilty.

Q. How many days was it after that time before you came back and did plead guilty?

A. It was the day that Izell Chambers went before the grand jury.

Q. You mean before the Judge to be tried?

A. Yes, sir, so I entered a plea of guilty.

Q. Why did you enter a plea of guilty?

A. I entered it because I was afraid; I was being forced to.

Q. Who were you afraid of?

A. I was afraid of Captain Williams most of all and I was scared of a mob.

Q. Was it on account of the fear you had of Captain Williams?

A. Yes, sir, of him, honest to goodness, he beat me unmercifully.

Q. Had he beat you unmercifully since you were in court the first time?

A. Yes, sir, he had beaten me, but he hadn't beaten me like he had the last time and said what he said about jumping out of the window, and put his gun up on the table, like he beat me the first night I was arrested.

[fol. 100] Q. You say the reason you went back and told the court you would plead guilty was you were afraid of Captain Williams and the rest of them?

A. Yes, sir.

Q. Did you on that morning talk to anybody who purported to be a lawyer to represent you?

A. The morning I went down to court, supposed to be going to trial, this man, I don't know his name now, come to me and said he was the lawyer, the State appointed him.

Q. Did he talk to you, tell you anything about your case, what to do or not to do?

A. He told me that he was a lawyer, was appointed by the State, I understood it that way. So I tried to explain to him that he didn't know anything about this case no way at all; so he tried to tell me the best thing to do; when I was up there he didn't say anything to me but come down in the court and stood up when the man sentenced us to the chair.

Cross-examination.

By Mr. Salisbury:

Q. Who arrested you?

A. Chief Maddox.

Q. Who else?

A. By himself.

Q. And what were you doing down there at the house the night he arrested you?

A. The night he arrested me I just had come from the store and I had bought some soap. I had my shirt off, I was just going to take a bath and rinse out the shirt and go to bed.

Q. You were rinsing out the short when he came to arrest you?

A. Yes, sir.

Q. What did you have on the shirt?

A. I put it in water.

Q. What did you have on the shirt, why were you rinsing the shirt out?

A. Nothing but dirt.

Q. Any blood on it?

A. No, sir, I never see any blood.

Mr. Catts: Object.

The Court: Objection sustained.

Q. You say they took you then to Pompano jail?

A. Yes, sir.

Q. And who was present?

A. Chief Maddox took me to jail. He took some more men but he left them and come over with a flashlight; I [fol. 101] thought some one was trying to scare me because they said the place was spooky. He came around with the light and walked up to the door and came in and looked around the house, searched it two or three times, and I asked him what did he want—

Q. I am talking about after they got you in the jail, did somebody beat you?

A. Yes, sir.

Q. Who was present?

A. Chief Maddox was present.

Q. Was Sheriff Clark present?

A. I didn't know him at that time, I had never seen him.

Q. Take a look at him now. You said a while ago you saw some one that kind of favored him?

A. I don't know for certain whether it was him or not.

Q. You remember whether or not Mr. Walter Clark questioned you in Pompano?

A. No, sir he didn't question me then. Mr. J. T. Williams was the man that was doing the biggest part that night.

Q. Now when was the first time they took you back to Broward County jail on Sunday?

A. Sunday morning.

Q. Now when was the first time they started beating you up there?

A. I believe on Monday.

Q. Did any one beat you on Sunday?

A. No, sir.

Q. What happened Monday?

A. Monday afternoon was when they took me out and I learned what it was all about, what they claimed had happened. I still didn't know what happened. A kind of stout man told me down in the office that Mack Little said he told the officers he knowed me and had seen me or something. Izell Chambers was in there and some other boys. And he said you don't know anything about any of the other boys, and I said I didn't know anything about them, that I never seen them. So Mr. Wright took me and carried me back upstairs and locked me up in a private cell.

Q. When did they first start beating you?

A. First started beating me on the 13th, the first night I was arrested, about 2.30.

Q. I am talking about after you got back to Broward County jail.

A. It was on Wednesday.

[fol. 102] Q. Didn't beat you on Monday?

A. No, sir, they didn't beat me on Monday.

Q. Anybody hit you Monday?

A. It was either Tuesday or Wednesday.

Q. Any one hit you on Tuesday?

A. No, sir.

Q. When was the time that Captain Williams said he was going to push you out the window and then say you jumped?

A. The first time he told me, -he first time he mentioned that was in Thursday night, I remember Thursday night, and he mentioned it again Friday night and Saturday night. He was talking about the mob that was out there waiting for me, and talked about turning the keys over to the mob.

Q. How many nights were you questioned after you got to Broward County jail?

A. They didn't question me the first of the week, as I said it started on Wednesday or Tuesday.

Q. You remember signing this petition (showing witness paper). Is that your signature, Charlie?

A. Yes, sir.

Q. Did you read that before you signed it?

Mr. Catts: You better tell him what it is.

Q. The petition was sent to you at Raiford. You signed that?

A. I didn't understand it very well. I had never been in court before but I thought it was all right and everything that was in it was right.

Q. Was everything in that petition that was signed by you at Raiford true?

A. I don't know what is in that one there; I signed more than one, and more than two I think,

Q. I am talking about the petition that was sent to you at Raiford and you signed. You remember signing this petition and swearing to it, this petition that was sent you up at Raiford?

A. Yes, sir.

Q. Did you read that over before you signed it?

A. I disremember.

[fol. 103] Q. Was it read to you by any one?

A. I believe it was read.

Q. Is everything contained in that petition that was read to you true?

A. Yes, sir, as far as I can recall.

Q. Do you recall the petition that I just presented to you, you recall whether that petition, from what you read or what was read to you, stated among other things—

A. Your Honor, I remember the petition but I do not recall what was in the petition and everything about it, I do not remember.

Q. Let me refresh your memory: "Your petitioners further represent unto the Court that Charlie Davis was taken from his cell to the Sheriff's Office of Broward County, Florida, at about 9:30 P. M. on May 20, 1933, and he was ordered to be seated. Immediately after he was seated in the Sheriff's office, he was knocked out of his chair".

A. Yes, sir.

Q. That's correct?

A. Yes, sir.

Q. That's after you reached Broward County jail?

A. Yes, sir.

Q. "—against the brick wall of the room, knocking him almost senseless by one of the men present there."

A. No, sir, I haven't said the brick wall, I don't know what kind of a wall.

Q. For a week they had been questioning him and he was without sleep and beating him every night; did they walk you every night for a week before you confessed on Sunday?

A. From the time I told you a while ago they asked me on Sunday and I say—

Q. Did they begin walking you on Monday?

A. They started Tuesday or Wednesday.

Q. Do you recall testifying in this case on February 21, 1935, down at Broward County, the last trial of this case?

A. Yes, sir, I remember being down there.

Q. I ask if you remember Mr. Maire asking you this question and giving this answer: "I know that Charlie, but I am asking you about the night up here in the jail, the night before this confession was taken, did Captain [fol. 104] Williams kick you that night, when he hit you with his fist? (A.) No, sir, he kept sending the jailer down in my cell, and I told him I didn't want to see him, because I hadn't done nothing. (Q.) I know, but did he kick you? (A.) No, sir, he told me he would get some of those trust negroes and have them throw me out the window and say I jumped out, committed suicide." Is that true or not. Did Captain Williams threaten to throw you out?

A. He threatened to throw me out or make me jump out from Thursday night to Saturday.

Q. And the further question and answer: "He didn't kick you? (A.) No, sir, I don't remember him kicking me.

(Q.) What did you mean when you testified before, I asked you this question: 'How many times did he hit you with the club?' and you said 'once', and I said 'How many times with his fist' and you said once. I said 'What else did he do?' and you said, 'he kicked me,' and I said, 'How many times did he kick you?' and you said 'Didn't kick me but once.' Didn't you testify to that here before, Charlie? (A.) That is right." Do you recall that question and answer?

A. That last question I don't remember. Your Honor, I do not remember all the things that happened in the case.

Q. Now, Charlie, after they got you up to Broward County jail, excluding any of this kangaroo court, I mean when they put you in the cell, did the other prisoners in there give you some certain licks for testifying as a witness, among the prisoners?

A. Yes, sir.

Q. No officers?

Q. Yes, sir.

Q. Excluding that, I want you to again tell the jury the first night, or the first day that Captain Williams, or any of the sheriff's deputies, or any other person beat you or kicked you or hit you with any object?

A. It was on Tuesday or Wednesday night.

Q. Let me ask you another question; when was it that they asked you if you knew Jack Williamson; I believe you testified that was on Saturday?

[fol. 105] A. I don't recall the exact date they asked me.

Q. Was it just after you got in Broward County jail, or after you had been there quite a while?

A. I had been there quite a while. As I said a while ago they didn't take me out until Wednesday or Tuesday because I was in jail all day Sunday and Monday.

Q. Didn't you testify before these gentlemen of the jury a few minutes ago that they brought you out on Saturday and asked you if you knew Jack Williamson, and they took you back to your cell; was that on a Saturday?

A. Yes; sir, they brought me out right enough and I say those same words, but I disremember whether it was Saturday or not.

Q. Do you recall whether they brought you out on Monday, the first Monday after you got in there?

A. No, they didn't get me the first Monday, they took me out only one time; they started beating me Tuesday night or Wednesday.

Q. What did they do when they took you out that one time on Monday, what did they do?

A. They took me down on the bottom floor in the sheriff's office.

Q. Did any one strike you?

A. No, sir, they didn't strike me that time.

Q. What did they do Tuesday?

A. They didn't take me out as I knows, I don't know whether it was Tuesday or Wednesday they took me out.

Q. Charlie, do you recall whether it was the first part of the week you were in jail or the last part of the week you were in jail they took you down to see Jack Williamson?

A. It wasn't the first part of the week.

Q. It was toward the last part of the week?

A. Toward the last part of the week but I disremember what day it was.

Q. Was it prior to the time you gave this confession?

A. It might have been Thursday, I don't know.

Q. Now you say you were carried down to Pompano again?

A. Yes, sir.

[fol. 106] Q. What were you carried down there for, and what did you do?

Mr. Catts: Object to counsel trying to elicit an answer from the witness which would not prove any issue in this case.

/(Question withdrawn.)

Q. Did you ever get beat or did any one ever strike you and mistreat you in Pompano Monday, the following Monday after you were confined in Broward County jail?

A. The following Monday?

Q. Yes, that's right?

A. No, after they took me out the first time they didn't strike me. That's when Captain Williams told me to wash my clothes.

Q. I believe you say that you counted five different times they took you out?

A. Yes, sir.

Q. About how long would they keep you out there and grill you and question you and beat you, about how long a length of time when they would take you out these five different times?

A. They kept me out there sometimes a long time.

Q. Would you say an hour?

A. Yes, sir, they kept me out there at times over an hour.

Q. Over an hour?

A. Yes, sir.

Q. Five times? What was the longest time of any of those five times?

A. I do not know.

Q. Would you say it was longer than over an hour, or would you say it was over two hours?

A. Around two hours.

Q. The other times were about an hour, do I understand you to say the other times were around an hour and longest time was about two hours?

A. Yes, sir, this is my guess for I didn't have no time-piece. I know they kept me there a long time, they kept that up all night until Sunday somewhere about eight or nine o'clock.

Q. What would they do when they took you out, besides beat you—you say they made you walk for almost a week; did they make you walk on Saturday night?

A. Yes, sir.

[fol. 107] Q. Who made you walk?

A. They walked themselves from the cell, walked from there to the elevator, and walked back and forth. What possessed me to count those times was because some other fellow down there said he had counted four times, and I said it was five, and then it was after 12 or one o'clock I think.

Q. Who had counted four times; what do you mean, some other prisoner had counted four times?

A. Yes, sir.

Q. And you remember they were wrong?

A. I remember him saying that, I don't know who he was, he was down below me.

Q. Now when they took you out of your cell and brought you back, you walked from your cell down to that room, but in addition to taking you down there I believe you stated they struck you and threatened you, but in addition did they make you walk up and down so you couldn't sleep?

A. No, sir, I couldn't sleep at all no way.

Q. Did they walk you up and down that Saturday night when they took you out five times?

A. They didn't walk me no more. They walked me from the cell.

Q. Was Captain Williams with you at all times during those five times?

A. Captain Williams was present every time.

Q. Every time?

A. Yes, sir.

Q. Was Sheriff Clark present every time?

A. I didn't see him every time.

Q. Each one of these five times was an hour, and the longest period was around two hours?

A. Yes, sir. I told you that was my guess.

Q. Now how many of these five times would you say was closer to two hours than one hour that Captain Williams was with you continually?

A. I don't know, I couldn't tell you now, because I was upset and frightened, I couldn't tell you.

Q. Let me ask you this question: you do know the shortest period of time of any of these five times was over an hour?

Mr. Catts: He said his guess would be such and such a time, but he didn't know how long.

[fol. 108] Q. Is your guess that a still shorter time of these five times was over an hour?

A. Yes, sir.

Q. And Captain Williams was with you continually the whole time?

A. Yes, sir, he was with me continually the whole time. There was more folks, I don't know who they were.

Q. Did he ever have Jack Williamson along on any of these trips; you were alone, weren't you?

A. Yes, sir, I was alone.

Q. Did he ever have Walter Woodward on any of these trips?

A. They was brought in the same time I was just about day that Sunday morning they were brought in that same morning.

Q. I am talking about Saturday night that you were taken out and Captain Williams was with you continually, according to your guess, not less than an hour, and in at least one instance over two, five different times during that night?

A. Yes, sir.

Q. Were you alone, were any of these other petitioners with you?

A. I wouldn't say that I was alone all the time.

Q. Was Jack Williamson ever with you?

A. I don't remember.

Q. Was Walter Woodward ever with you?

A. I don't remember, Walter being with me any time of night, I think it was that night—

Q. I am asking about that night?

A. I don't remember, your Honor.

Q. You don't remember whether you were with Walter Woodward that night?

A. Not at night. That Sunday morning before day I know he was there.

Q. You know who was there?

A. Walter Woodward, Jack Williamson and myself.

Q. You know they were where?

A. In this same place of Mr. Marshall where he sleeps, where the bed and radio and chair and different things.

[fol. 109] Q. I am asking you if Walter Woodward or any of these other boys sitting over there were ever with you on any one of these five times that Captain Williams took you out of your cell and stayed with you continually?

A. I told you I don't remember.

Q. When was this you saw Mr. Maire tear up something; what caused you to remember that; didn't you state that you saw Mr. Maire tear up Walter Woodward's confession, and you talked to Walter?

A. I talked to Walter?

Q. You recall what you testified?

A. Yes, sir, I told you Mr. Maire come over twice.

Q. Didn't you say you heard Mr. Maire question Walter Woodward Saturday night?

A. I told you I heard Mr. Maire say something, but I ain't saying anything about Mr. Maire questioning Walter Woodward.

Q. You heard him say something to who?

A. Say something concerning protection, that's what he said.

Q. Now I am asking you the fact, do you recall whether or not you ever saw Mr. Maire with Walter Woodward Saturday night?

A. The only time I see Mr. Maire or Walter Woodward, the onliest time I saw Mr. Maire and know Mr. Maire was the next morning—you are talking about this night—the only time I saw him anywhere near Walter Woodward, it was that same morning, that same night or morning, whatever you want to call it.

Q. What do you mean, morning or night; do you mean the morning when the confessions were taken at 6.30 at Mr. Maire's office?

A. Yes, sir.

Q. That's when you saw Walter Woodward and saw Mr. Maire questioning him?

A. Yes, sir.

Q. And that's the only time you saw them together?

A. That's the only time I ever saw them together.

[fol. 110] Q. Now when do you claim you ever saw Mr. Maire tear up a piece of paper that you now tell this jury

was a confession, or didn't you see him tear up anything that day?

A. I told you Mr. Maire came twice over there. The first time he must have been disgusted or something because he went away.

Q. What did he do?

A. Well I know about the next time he came. I remember some of that pretty well.

Q. You are sure you saw Mr. Maire twice. That was Saturday night of Sunday morning?

A. I said I remember the last time he come well some of the things.

Q. That's the time you gave this confession?

A. The last time.

Q. Now you say you were walked out five different times and taken down by Captain Williams, and he was with you continually the whole time?

A. Yes, sir.

Q. How many times to your knowledge was Walter Woodward taken out by Captain Williams?

A. I don't know how many times he was taken out, but I hear the door slam back, somebody, I don't know who it was.

Q. You heard Walter Woodward testify just now?

A. Yes, sir I heard him.

Q. How many times was Jack Williamson taken out to your knowledge Saturday night and early Sunday morning?

A. That I do not know.

Q. But you recall definitely that you were taken out five times?

A. Yes, sir, because the fellow below me, might have been sleepy or something, but he said I had been out four times, I don't know whether that's the last time or not, I was hit so I don't know; they come and got me another time, that was the last time that night; I didn't go back after that Sunday morning.

[fol. 111] Q. You recall the second time you say you saw Mr. Maire when the confession was given?

A. Yes, sir, I recall the time I saw Mr. Maire, the time when I told that man I would say what he wanted me to say, that was on Sunday morning when Mr. Maire came over there.

Q. You remember whether or not Mr. Maire asked you whether or not any one had beat you or threatened you in any way?

A. I remember Mr. Maire telling something like that but I ain't saying nothing to him, I wouldn't talk.

Q. You mean you didn't talk to him?

A. I didn't talk to him.

Q. You remember whether or not on May 21, you remember this question was asked by me and you gave this answer: "Charlie Davis, do you want to make a statement and tell what you know about the hold up of Mr. Darcey at Pompano on May 13, 1933, (A) Yes, sir". Is that true?

A. I don't remember saying that.

Q. "Has anybody beat you or forced you in any way to make the statement you are about to make? (A) No, sir, they have not." You recall that?

A. No, sir.

Q. "In order to induce you to make a statement has anybody promised you any reward or anything to get you to do it? (A) No, sir." You recall that?

A. I remember his saying something. I didn't know what his name was, I didn't even know who he was, until he told me.

Q. This question was asked you: "You want to make a statement freely and voluntarily, of your own will? (A) Yes, sir." "And tell the truth about it? (A) Yes, sir." You don't recall that?

A. No, sir.

Q. You recall the trial of Izell Chambers when you testified on behalf of the State?

A. I don't remember those things, and that man he threatened me and said what he would do, and I believed he was going to do what he said he would do.

[fol. 112] Q. I ask you if you remember the day that Izell Chambers was tried and you testified in court as a witness?

A. Yes, sir, I remember some things that day all right.

Q. What things do you remember that day, that you remember testifying?

A. I remember well seeing this big man Captain Williams, I remember him coming around, he come in and say something to me, but I don't know what it was; he told me not to forget what he told me.

Q. Charlie, at the trial of Chambers, this negro sitting over this end, you recall testifying as a witness for the State at his trial, do you not?

A. I remember that day, of course I don't know what I said.

Q. But you do remember Captain Williams coming in there that day?

A. I remember—what caused me to remember him so well he came over where I was and he spoke to me again. He went on the stand after then.

Q. Did any one else speak to you that day?

A. I don't remember anybody else speaking to me except the man I used to work for.

Q. At the trial did you or did you now answer the same questions according to the way you did in the confession at the trial of Chambers?

A. I tell you what I do remember. This lawyer that I had I remember I tried to tell him, he came up there to me one time and I tried to tell him—

Q. I am talking about the trial of Chambers.

A. Yes, sir, the day of Chambers trial.

Q. Tried before a jury wasn't it?

A. Yes, sir.

Q. And you testified?

A. Chambers tried before a jury.

Q. And you testified?

A. No, sir, I ain't saying I remember nothing about my testimony or anything like that.

Q. I am not asking you if you remember your testimony. I ask you can you remember being physically in the court room, sitting in the court room testifying, you remember that?

A. Yes, sir, I went on the stand, but what I said I don't [fol. 113] know.

Q. What you said you don't know?

A. No, I don't remember what I said.

Q. Why were you in that situation; right now you can't remember, but you can remember these other things, why is it you can't remember what you said?

A. Your Honor, I told you I could remember some things, I couldn't remember everything.

Q. Can you remember anything you said when you were a witness in that case?

Mr. Catts: If you can remember anything, just answer the question yes or no.

Witness: I told him, no sir, I can't remember.

Q. Charley, you remember Mr. Worley, an attorney in Miami?

A. I only know him by seeing him one time.

Q. He came up from Miami to the jail to talk with you?

A. Yes sir, he did.

Q. Did you tell Mr. Worley about Captain Williams, Sheriff Clark and the rest of them beating you and threatening to push you out the window?

A. If I told Mr. Worley I would not have been here today.

Q. You would not have been here today?

A. No, sir.

Q. But you didn't tell him. He was a lawyer that came up from Miami to see you about representing you?

A. Yes, sir, my father from North Carolina got him to come up here.

Q. That was his job, he came up after you had given this confession up in Mr. Maire's office, wasn't it?

A. I told them I would say what they wanted me to if they didn't kill me.

Q. How many days after that was it Mr. Worley came up from Miami to see you?

A. Yes, sir, he came up.

Q. About how long after you gave the confession in Mr. Maire's office?

A. I don't know.

Q. Would you say it was three days?

A. I do not know.

[fol. 114] Q. Would you say it was three weeks?

A. I do not know.

Q. Just a blank, your mind?

A. I don't know what it is.

Q. Was it after the plea of guilty before Judge Tedder in this case that Mr. Worley came up to see you?

A. Yes, sir, he came up to see me.

Q. Was it after you plead guilty?

A. It was after I was sentenced.

Q. You know James Little?

A. No, sir, I see him in jail.

Q. You do know him?

A. I see him in jail, see him in jail the first time I see him.

Q. As a matter of fact you were in the same cell with James Little for a while?

A. Yes, sir, for a while. He made a confession, him and Frank Manuel. After then he was put down in the bull pen.

Q. As a matter of fact you were in the same cell with

James Little on Saturday before the confession was given on Sunday.

(James Little brought into the court room.)

Q. Is that James Little?

A. I don't know whether that's James Little or not.

Q. Is he the man you were in jail with?

A. I saw him out there in the kangaroo court. Before this time I was lying on the bed and he sat on the other bed before this time.

Q. Was he in your cell with you on Saturday before this before this Sunday that you gave the confession in Mr. Maire's office?

A. I don't remember.

Q. But you do, however, remember he was in your cell at some time?

A. Yes, sir.

Q. And this is the one?

A. That's the man; first time I saw him was in jail.

Q. You recall whether or not you had a conversation with him as to whether or not you had been beaten?

A. No, sir, I never talked. The fellow said I was crazy because I wouldn't talk.

[fol. 115] Q. Who said you were crazy?

A. Fellow by the name of Banjo Berney. He was in jail at the time.

Q. I ask you whether or not you told this boy here whether they had or had not beat you?

A. I don't remember.

Q. You don't remember whether you told him they had or not?

A. I don't remember I told him anything, that he talked to me about anything.

Q. You mean to convey to the jury that you had been beaten and walked since Tuesday, Wednesday, Thursday, Friday and Saturday, and you can't remember whether you told this darkey whether you had or had not?

A. You know that place is full, your Honor, lot of people were in there I haven't never seen before.

Q. You didn't ever see him in your cell?

A. I told you before he was in my cell sitting on the bed talking to another fellow, and I was lying down. There is four bunks in the cell. I was laying down at the time because my head was aching.

Q. Why was it now that you went up to Mr. Maire's office and answered these questions to him like you did in your confession, and why was it you got up in court and plead guilty?

A. I didn't go to Mr. Maire's office; if I did, I didn't know it.

Q. Well the office where Mr. Maire was sitting when these questions were asked you and the answers given by you, why was it you confessed in front of Mr. Maire, sitting here, and the Sheriff, sitting here, and several others?

A. I told Captain Williams I would say anything he wanted me to say if he wouldn't kill me and wouldn't beat me any more, I told him I couldn't stand any more.

Q. Were you afraid of Captain Williams?

A. Yes, sir.

Q. You remember testifying on February 21, 1935, at the trial of a case down in Broward County, Florida?

A. Yes, sir, I remember being down there.

[fol. 116] Q. You remember this question: "Did Mr.—Captain Williams hit you with anything? (A.) He had a black jack up there and he throwed his gun on me and I told him his gun wouldn't shoot and he laid it down on the table." You remember whether that question was asked you and that answer given?

A. No, sir.

Q. "You weren't scared of him then were you Charlie? (A.) No, sir, I was as much law as he was." You remember that question and that answer given?

A. No, sir.

Q. And you say it was because you were afraid of Captain Williams that you made this confession?

A. Yes, sir, and there was other things.

Q. What was that?

A. Well the mob, the people he claimed was out there; to make me jump out the window and shoot me, make believe I was trying to run, and things like that.

Q. I will ask you if you remember, referring to February, 1935, you remember this question being asked you and the following answer given: "I believe you testified a few minutes ago that you weren't afraid of Mr. Williams up here in the jail the night of the 21st—20th and 21st of May, is that true?" (A.) That is right. You remember that question being asked and you giving that answer?

A. Your Honor, I don't remember saying it.

Q. I will ask you if you remember this question: "Well what made you give this confession then? (A.) After I saw I had to do that, I had to rely on my own self, to save my own life." And this question: "So it wasn't because you were afraid of Captain Williams or any of the officers, but you were afraid you would lose your life, was it? (A.) Yes, sir, I was afraid I would lose my life. I knew that man was the sheriff, but I wanted to know about this man, seemed like he was taking possession of this country. He was a convict guard. I know law, see? and recognize law and order." You remember that answer being given?

A. Yes sir, I remember I said I never broke the law, I remember that.

[fol. 117] Q. And you say you were afraid of mob violence?

A. Yes, sir, he had talked so much about it.

Q. You remember this question being asked at that same trial: "Were you ill-treated by any of the officers between the time the confession was taken and that day, Charlie? (A.) Well, I tell you, I read in the paper and saw where they was beating up people in Pompano and shooting up innocent people, and so I tried to take it all on myself to keep them from shooting up anybody else, because those white people had taken the law in their hands, and they are not law, see? shooting up people and running them away from town, over shooting people going to church, and I tried to take it upon myself to keep them from shooting up anybody else." You remember that question was asked and that answer given?

A. Yes, sir, I remember something concerning it but I don't remember all of it.

Q. What did you mean by that?

Mr. Catts: Object to that.

The Court: Objection sustained.

Q. Is that true or untrue?

A. I remember something that you spoke a while ago but I can't tell you all of it.

Q. Charlie, as a matter of fact did you make this confession that you made in order to take it all on yourself and keep them from shooting up people in Pompano; was that the reason you confessed?

A. No, sir.

Mr. Catts: Object.

The Court: Objection overruled.

Q. Charlie, Judge Tedder appointed a lawyer to defend you, did he not; you recall whether he did or not?

A. The man I told you about, I didn't know his name, went down with me; came up before I went down.

Q. Came up to your cell, did he?

A. No, he didn't come up to my cell. I was in the bull pen, he came outside the bull pen and I came out, that's the first time I ever see him. He said that he was a lawyer appointed by the State.

[fol. 118] Q. To defend you, didn't he?

A. Yes, sir.

Q. Did you tell him whether or not you had been beaten?

A. I wanted to tell him.

Q. Let me ask you first, did you tell that man that came up to see you in the bull pen before you went to plead in your trial, did you tell him or represent to him that Captain Williams or the Sheriff, or any one else, had beat you or ill-treated you and forced you to give that confession?

A. I wanted to tell him but Captain Williams was right there with us and I couldn't tell him.

Q. You mean you didn't tell him?

A. No, I didn't tell him.

Q. Did the lawyer ever ask you when Captain Williams wasn't present?

A. No, sir, in fact the lawyer he hadn't said a dozen words to me.

Q. On Saturday night, prior to the time the confession was given, did Bob Clark or Mr. Virgil Wright ever question you, they come there to your cell?

A. I haven't seen them.

Redirect examination.

By Mr. Catts:

Q. Charlie, were you ever brought into court down there in Broward County and the court itself tell you you had an attorney to represent you?

A. I don't understand.

Q. Did the Judge down there of the court ever bring you before him and tell you you had an attorney, that he had appointed an attorney to represent you?

A. I don't remember. He said something down there, I don't remember that time, because I tell you why I didn't remember because my head was worrying me, and I don't

remember; he was saying something, I don't remember exactly what he said.

Q. The only way you knew you had an attorney was by what the attorney told you?

A. Yes, sir, that's the only way I know him, just before I went down in the court room, he came outside my cell, I started to tell him I hadn't done anything, he could see himself.

[fol. 119] Q. Did you have any wounds on you at the time you were talking to the lawyer?

A. Yes, sir.

Q. Where were they?

A. Right here and back here, and right around there. (Indicating.)

By Mr. Salisbury:

Q. Where did you get those wounds?

A. I got them from Captain Williams.

(Witness excused.)

Thereupon Court adjourned to 9 o'clock A. M. Tuesday, October 13, 1936.

[fol. 120]

Morning Session

Tuesday, October 13, 1936, 9 o'clock.

CHARLIE DAVIS, the witness on the stand at adjournment was recalled, and testified on behalf of petitioners as follows:

Redirect examination.

By Mr. Catts:

Q. Yesterday you testified that you testified down in Broward County at the trial of Izell Chambers; was that the same date on which you finally entered a plea of guilty in Broward County?

A. Yes, sir.

Q. You also told the court and jury yesterday that when you were brought back to the cell that Saturday night somebody said to you it was the fourth time you had been out; where were you kept at, in the bull pen?

A. I was kept in the bull pen.

Q. How many other persons were in the bull pen?

A. There were around twenty.

Q. Was it one of these other boys in the bull pen that said that to you?

A. Yes, sir.

Q. Did you wake him up at any time?

A. He was already woke by the sound of the door he said. I don't know who he was, I didn't see him.

Q. Did you sleep any that night yourself?

A. No, sir.

Q. Around this bull pen are separate cells where you sleep?

A. Yes, sir, there is four bunks in each cell.

Q. Then the outside door of the cells open up into what you call the bull pen, a big open space there?

A. Yes, sir.

Q. Did you know any of these other three defendants sitting here before you were brought into Broward County jail?

A. No, sir.

Q. Did you ever seen any of them before?

A. No, sir; if I see them I didn't know them.

Q. The first time you saw them was in jail?

A. Yes, sir.

(Witness excused.)

[fol. 121] IZELL CHAMBERS, being first duly sworn by the Clerk, testified on behalf of the petitioners as follows:

Direct examination.

By Mr. Catts:

Q. Your name is Izell Chambers?

A. Yes, sir.

Q. You are one of the petitioners in this case?

A. Yes, sir.

Q. Where were you living during the month of May, 1933?

A. I was in Pompano.

Q. How long had you lived in Pompano?

A. I lived in Pompano around five months.

Q. Who were you living with at that time?

A. I was living with Walter Woodward.

Q. At his house there in Pompano?

A. Yes, sir.

Q. You remember when you were first arrested in connection with this case?

A. Yes, sir.

Q. Where were you arrested and about what time of night?

A. It was about eleven o'clock on the 14th night of May in 1933, when I was arrested in Mr. Blount's quarters.

Q. At Walter Woodward's house?

A. Yes, sir.

Q. What were you doing when they came there and arrested you?

A. When they came there and arrested me we was all asleep, and I think I was about the last one that was awakened out of bed that night.

Q. Tell the jury everything that happened to you after the time you were arrested, and after you got to Broward County jail?

A. Gentlemen of the jury, it was on the 14th night of May, 1933, I was awakened out of my bed about eleven o'clock, me Walter Woodward, Claudie Mack and Jack Williamson; we was arrested by Sheriff Walter Clark and Mr. R. R. Helton and Mr. Bob Clark, and there was some more that I can't recall now. However, when I was awakened they told us to get up and put on our clothes, so I was almost frightened because Mr. Blount had sent word down to the quarters that Sunday night to tell everybody not to go out of the quarters because tomorrow some said they was going to [fol. 122] kill so many negroes of the town until they would have to lay them out in a truck load. So that night we all went to bed; so when they walked in to arrest us, I asked them for what—I was trying to figure then that was the mob done come to get us, and they said you find out what if we messed around here very long. So after we got on our clothes they told us to run for fear the mob may overtake us before we got to the County jail of Broward County. So after we get to jail they separate me from the other three boys.

Q. On the way to the car what else happened, if anything?

A. Just after they told us to run, I think if I make no mistake, one of the boys while running lost one of his shoes between there and the car.

Q. Did you pick up anybody else?

A. This Frank Manuel, he was the cause of me being mostly in this trouble today, he was chained to an old car body out there, not more than 15 or 30 yards from the house where we was arrested at.

Q. Did they unchain him at that time?

A. Yes, sir, they carried him to jail with us. So after I got to the jail they separate me from these other three boys. Chief Maddox and Mr. Virgil Wright they take me up on the fourth floor of the jail to a room, where they beat me throughout the week. They began beating me there and I asked what they were beating me for.

Q. Was this Sunday night?

A. On Sunday night, May 14th.

Q. As soon as you got in the jail they took you up on the fourth floor?

A. Yes, sir.

Q. Is that the same room that had the bed in it?

A. The same room that had the bed and radio in it, yes, sir.

Q. Who took you up there, Mr. Virgil Wright?

A. Mr. Virgil Wright and Chief Maddox, the Chief at that time.

Q. Was anybody else there at the time?

A. Nobody but just those two only; so they begun beating me; I asked them what was they beating me for; well they told says "wasn't you with these negroes that killed this man up there in Pompano"? I told them no I wasn't even with anybody that killed anybody. I didn't even know the [fol. 123] man was killed until late that Sunday night, didn't even know the man, had never seed him. So they continued to beat me there for quite a bit, until they thought of this lady who was serving time in the jail, she being not more than five or six feet from the place where they was beating me at and they temporary ceased thinking the woman had heard the indecent words they was using while they was beating me, so they stopped beating me for quite a while and put me in a cell with another boy by the name or Carmele Rone.

Q. On what floor?

A. In the same floor they was beating me on.

Q. That wasn't the room where the bull pen was?

A. No, it was a private cell, they put me in with him; so that Monday morning which was the 15th of May, they took me down in the sheriff's office, I suppose, the first and the

last time without beating me and they kept me for quite a bit; they didn't beat me that Monday morning.

Q. They ask you questions?

A. They only questioned me that Monday morning.

Q. Who was there?

A. Mr. Sheriff Walter Clark and some more men, I can't recall who it was. I remember I was in there and they questioned me, and so they took this Mack Little, Frank Manuel and Charlie Davis and took them down to the office; and they asked me wasn't I with them the night the man was killed. I told them no, I didn't know anything about his death until late Sunday. So they took me back in my cell, and that was Monday night. Well about a little after dusk dark, I suppose, they come up to my cell and took me out and they started on the way to Miami with us, they claimed that a mob of fifty cars filled with men was waiting to take our lives. I told them I hadn't did anything for the mob to take my life, and I didn't believe the mob would want to take the life of an innocent man. Instead of them taking us down the elevator they took us down the stairway steps that leads to the back of the jail.

[fol. 124] Q. And took you all the way down the fire escape?

A. Yes, sir. So we goes down and gets in the car. While we was on the way, Captain Williams, the man that did the most of the beating from Tuesday until Sunday morning, which was the 21st of May—so while we was on the way to Miami he says to the sheriff Walter Clark, he says "well you know we are saving the county two thousand or more dollars; of course if it wasn't for us the mob would lynch these five niggers."

Q. Who said that?

A. Captain J. T. Williams. He said in fact they deserve lynching, and I told him I hadn't did anything to be lynched for, while we was in the automobile.

Q. Who else was in the car?

A. Frank Manuel, Jack Williamson, Willie Henderson, and I, there was five in the car, they were taking us to Miami for safe keeping that night.

Q. What officers were in the car?

A. Sheriff Walter Clark and Captain J. T. Williams was the only two officers in the car. So they took us on to Miami that night which was the 15th of May, 1933.

Q. Anybody stop you on the way to Miami?

A. Yes, sir, I think that speed cop stopped us on the way; he rode up by the car with us in, and he blowed the siren, and Captain J. T. Williams told him he was getting away with five negroes from a mob, and he told him to go ahead. So we goes into Miami jail; they kept us there that night and on the 16th, I think somewhere along about 12 or 1.30 they came over and carries us back to Broward County jail. After they took us back to Broward County jail they resumed beating of us again.

Q. Tell what happened to you?

A. They resumed beating me.

Q. Where were you taken when they first brought you back?

A. They took me back to the same cell they took me out of on Monday night.

[fol. 125] Q. Put anybody in there with you?

A. No, sir, I was in there alone that time, on the fourth floor. Then they took me out and began beating me again.

Q. Tell the Court and jury who all got you and who bear you?

A. It was Captain J. T. Williams.

Q. Who come and got you?

A. Mr. Marshall the jailer come and got me from the cell every time I was taken out, and so they come and got me again and began to beat me right on.

Q. Where did they take you?

A. They took me into the room where they had this little cot; there wasn't any one staying there at that time, it was said to be Mr. Marshall's quarters, but he wasn't staying there the time in that room they was beating us. And they began to beat me, try to make me untruthfully say I knew something about the death of this man, when I said I was innocent of it. And so during that evening some one, I think it was Carnel Rone—not Carnel, but it was another one of the Rone boys, told me that Frank Manuel and Mack Little had made a confession to taking the life of this man that I am accused of and being tried for today, and he said that Frank Manuel and Mack Little involved me in the case, and I told him I didn't know this Mack Little and Frank Manuel hadn't even seen me after that Sunday night they put me in prison. So on Wednesday morning, which was May 17, it came out in the paper that Frank Manuel and Mack Little had made a confession of this case.

Q. You see it in the paper?

A. Yes, sir, I read it myself.

Q. In what paper?

A. I don't know; I think it was the Lauderdale Morning News.

Q. Where did you get the paper from?

A. From some of the boys taking the paper there that time. So that Wednesday they take me out and begin to beat me again, trying to make me say I know something about the death of this man. And I told Captain J. T. Williams and Sheriff Walter Clark, if you will go up to Pompano, I have witnesses there that will tell you where I was Saturday night, and he asked me to give the witness [fol. 126] name, and I did so; and he goes up to Pompano to see my witnesses and returns to Broward County jail and said we have seen your witnesses and they have told the same story you are telling but we are not going to accept what they say. We told them they had better let you go if they don't want to be in jail just as you are, or be in worsen condition. So after they told me that, they commenced beating me again, threatening to take my life or either turn me over to the mob else, and I told them, I says "Captain J. T. Williams, I am innocent of what you mens have got me accused for; I have sent you out to see my witnesses and they have told you where I was Saturday night when this crime was committed, but you continue to beat me." Now, gentlemen of the jury, after I have told the sheriff just where I was Saturday night, and these witnesses knew where I was, then they continued to beat me throughout every day and every night. I didn't even know what sleep was, I had almost forgot what sleep was to a man; when I was in the cell I was in misery from where they beat me. I have a scar on my hand and this one on my head, and I have several bruises.

Q. Show the bruises to the jury?

A. This scar came here on me by being hit here by Captain J. T. Williams, that's where he kicked me down, knocked me down on the floor; he kicked for my head but I throwed my head to keep him from hitting me in the eye, that's the cause of the two on my head today. So every day they continued to beat me trying to make me untruthfully say I knew something about the case, when I told them I had witnesses to prove where I was that night. Every night and day until the 21st morning of May I was beaten by Captain J. T. Williams.

Q. Do you know what happened on the night of the 20th?

A. Yes, sir.

Q. Just when was the first time you was taken out and questioned about it?

A. The first time I was taken out that night I was taken out from the cell where I was alone, I was taken out in the bull pen.

[fol. 127] Q. When had you been put back in the bull pen?

A. I had been put back in the bull pen, I don't recall just what day it was, he took me back in the bull pen some time after. Frank Manuel had made a confession in this case. So that Saturday night Mr. Marshall he came down in the bull pen and gets me about nine o'clock and he took me up on the fourth floor of the jail, the room where they had usually beat me throughout the week, took me up there and after getting in Captain J. T. Williams and Sheriff Clark, says "ain't you ready to confess the truth." I told them I had confessed the truth throughout the week and that I was innocent of what they was beaten me up and threatened to take my life or either turn me over to the mob. They said "well, you have kept us up all the week and caused us to lose our sleep but we are not going to stay up another night messing along with you."

Q. Which one of them told you that?

A. Well Captain J. T. Williams and Sheriff Walter Clark told me that I was either going to confess the truth that Saturday night, May 20th, or either I was going to be killed that night, they was going to kill me or turn me over to this mob. I told them I was innocent and if had been proved, but they wouldn't listen to me, and the second time they took me and beat me same as they did the first and the third. I think if I make no mistake Frank Manuel and Mack Little was there the third time I was taken out that Saturday night, they had these two boys out there, and Captain J. T. Williams and Sheriff Walter Clark they told these boys to tell just how this crime was committed, and so these boys commenced to swear untruths on me, and so when I would go to speak or say anything why Captain Williams would make me hush, wouldn't admit me to say anything to these boys or contradict anything they said against me. And so I just hushed because I knew good and well, just like they had beat me and kept me up throughout the week, they would kill me just as they said they was going to do that night unless I did make a confession of the case, and to that

third time—then they took me back to my cell and kept me [fol. 128] there but a very few minutes. On the fourth time they take me out and ask me the same thing, was I ready to confess and tell the truth. I told them I told the truth, all I could tell. So Captain Williams began to beat and kick me and knock me about, knock me on my knees and caused my knees to bleed, and then he took his revolver from his pocket, he said he would rather kill me himself than let the mob have me. This man, the tears was rolling from his eyes, he said he was going to kill or else do what he said he was going to do. I told him don't kill me or either turn me over to this mob, I would say what he wanted me to say, but I told him at the same time I was innocent of it, and it was against my will to say what he wanted me to say. Gentlemen of the jury, if I had been guilty of what Captain J. T. Williams and Sheriff Walter Clark and Captain Wright, Chief Maddox had me accused of, and beaten me up throughout the week, if I had made a free and voluntary confession of the case, I would have made it on the first time they beat me, which was on Sunday night, and it shows you my confession which I did make was not free and voluntary, because they beat me throughout the week and kept me up from Monday night until Sunday night, which was from the 14th to the 21st, and that's when I made the confession, or said just what they wanted me to say. I have never made a confession, I have never signed a confession to this. I have never picked up a pen to sign it; all I know I am innocent of it.

Q. About what time of night was it they took you in there with Frank Manuel and Mack Little?

A. I don't know exactly what time it was but it was getting very late in the night.

Q. Was that the fourth time you were taken out that night?

A. That was the third time.

Q. When you finally did say anything was it what Frank Manuel and Mack Little had said about you?

[fol. 129] A. I don't know what he wanted me to say, but he wanted me to say I knew something about the death of this man, that's what he wanted me to say.

Q. You say they were making accusations in there against you, Frank Manuel and Mack Little?

A. Yes, sir.

Q. How long was it after that time before you were finally taken back in there and said you would tell what they wanted you to say?

A. It was but a very few minutes.

Q. Was it near daylight or near midnight?

A. Yes, sir, it was daylight, it was about 5:30 o'clock when I told them I would say what they wanted me to say, because it was somewhere between 6 and 6:30 o'clock when Mr. Lewis F. Maire, the prosecuting attorney, came up there to take down what was said.

Q. What did they do with you after that?

A. After they told me to say what they wanted me to say, Captain J. T. Williams just begun to prime me what I was to tell the prosecuting attorney when he come.

Q. Then where did they take you?

A. Well, after they got through questioning me they just kept me there until he come.

Q. Kept you in the same room?

A. In the same room, yes, sir.

Q. Did anybody else come in that room before Mr. Maire came?

A. Not that I know. Lot of men was in there before he came in.

Q. How about the other four boys?

A. Yes, sir, they was brought in there.

Q. You were the first one in that room?

A. I think I was the very first one in there because I didn't go back to my cell on the last time I was taken out.

Q. Now how long after that was it you were taken in court?

A. That was on the 21st; it was better than three weeks before I was taken down to court.

Q. You mean more than three weeks before you were taken down there for trial?

A. Yes, sir.

Q. Weren't you taken down there for arraignment?

A. Well they took me down there once to plead guilty as Captain J. T. Williams told me to do.

[fol. 130] Q. Well how long was that after this Sunday morning?

A. I don't recall just how long but it wasn't but a few days.

Q. Now when you got down in the court that morning did you plead guilty?

A. No, sir, I plead not guilty.

Q. Had you seen Captain Williams any from that time on Sunday morning and the time you were taken into court?

A. He was in the court room.

Q. Had he come to the jail to see you any time?

A. Yes, sir, he come and told me he wanted me to plead guilty before the Judge if I wanted to live.

Q. What did you tell him?

A. I told him I would. I told him that in order to keep him from beating me up. He was killing me.

Q. Now when you got in the court room you did not plead guilty?

A. I did not plead guilty, no, sir.

Q. Now when you plead not guilty that day in open court were you taken back to your cell after that time?

A. Yes, sir.

Q. That same day?

A. Yes, sir.

Q. What cell were you put in the jail?

A. In the same cell I was taken out of.

Q. And they you stayed there for some two or three weeks before you were tried?

A. Well I stayed in that cell I suppose it was not more than five days I reckon. After I wouldn't plead guilty, Captain J. T. Williams came back and he took me back in the same room that he had beaten me in, and he asked me why didn't I plead guilty. I told him I just didn't plead guilty because I was innocent of what you men accuse me for, and I didn't want to plead guilty before the Judge. He told Mr. Marshall they had better take me away from there before he killed me himself. So that same night they took me then to Miami jail for safe keeping, and I stayed there I think it was two weeks until they brought me back.

Q. They took you from Broward County jail alone?

A. They took me from Broward County jail alone.

Q. None of the rest of the boys were taken down there but you?

A. No one but me.

[fol. 131] Q. Who all was there that Sunday morning?

A. I don't know.

Q. That Sunday morning when they was supposed to take the confession?

A. I don't know, but I know Sheriff Walter Clark, Chief Maddox, R. H. Helton, and a lot of other men.

Q. And Captain Williams?

A. Captain Williams, he was there.

Q. Why didn't you say something to these gentlemen that were there that time about 6.30, whenever it was this statement was taken?

Q. Well it was because Captain J. T. Williams during the time he was beating me, he told me if I didn't make the confession, say what he wanted me to say, he would shoot me and throw me out the window and swear he shot me as I jumped to run.

Q. Had you slept any that night?

A. Not that night and I hadn't slept but a very little bit throughout the week. I had almost forgot the use of sleep.

Q. You know whether Frank Manuel or Mack Little were ever put on trial in this case?

A. Mack Little he was put on the stand.

Q. Were they ever put on trial?

A. No, they never was on trial. They just confessed but they are free today. They have never been on trial.

Cross-examination.

By Mr. Salisbury:

Q. You were arrested at the same time that Walter and Jack Williamson were arrested?

A. Yes, sir.

Q. You were living with them?

A. Yes, sir living with Walter Woodard.

Q. You had been knowing them a long time?

A. I had been knowing Walter for more than three or four months.

Q. Who do you say arrested you?

A. Well, Chief Maddox, Sheriff Walter Clark, Mr. Robert Clark, Mr. R. H. Helton, I recognized those, and Mr. Dick Goodrich, he was there also.

Q. Was Sheriff Walter Clark along that night?

A. Yes, sir, he was along that night.

[fol. 132] Q. Now you say they told you that night there was a mob after you?

A. Yes, sir, that's what they told me. I asked them what they wanted me for and they told me if I messed around there long I would find out.

Q. They didn't tell you there was any mob after you this Sunday morning?

A. I had been threatened about the mob throughout the week.

Q. I believe you testified that Captain Williams of they beat you throughout the week?

A. Yes, sir, Captain J. T. Williams.

Q. Was he the one that beat you every time?

A. Every time I was beat except Sunday night, when Chief Maddox and Mr. Virgil Wright beat me.

Q. Was that the Sunday night you were arrested?

A. Yes, sir.

Q. All the balance of the week you were in the Broward County jail Captain Williams beat you?

A. In the presence of Sheriff Walter Clark.

Q. Was that all night long?

A. Well he beat me a good bit every night and day.

Q. You say Virgil Wright beat you on that Monday?

A. No, sir, on Sunday night.

Q. On the Sunday night you were arrested?

A. Yes, sir.

Q. And Captain Williams was the one that beat you the balance of the week?

A. Yes, sir.

Q. How many times did Captain Williams take you out of your cell on Saturday night and Sunday morning before you made your confession?

A. I was taken out four times.

Q. How long did he keep you out at a time?

A. I don't know exactly how long.

Q. How long would you guess?

A. I don't have no guess because I didn't have any time-piece, but I only know he kept me out but a very short while.

Q. A very short while?

A. Yes sir.

Q. Didn't beat you long at a time?

A. Not long at a time because if they had beat me long at a time they couldn't have kept on.

[fol. 133] Q. You remember testifying two previous times in this case, once when you were placed on trial on June 12, 1933, in Broward County, you remember testifying?

A. Yes, sir, I remember testifying.

Q. You remember testifying at the same place in Broward County February 21, 1935?

A. Yes, sir.

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Q. You remember your testimony you gave in both of those cases?

A. Yes, sir, I remember well.

Q. I will ask you if you recall when you were tried in Broward County on June 12, 1933, when Mr. Maire asked you the following questions and the following answers were given: "And these officers questioned you all week long and you denied it at first? (A.) I denied about what the man told me to do; yes, sir. (Q.) And when the rest of the boys went up there and admitted it why you had to do it? (A.) The people didn't know exactly how it was until I come down and told it myself. (Q.) If you wanted to deny it why did you wait all week before you told the truth about it? (A.) I was off one day and I didn't tell it because Walter told me if I told it he would kill me." You remember those questions?

A. No, sir I don't remember that.

Mr. Catts: I want to object to this. Counsel for the State is asking questions that were propounded to this witness on the trial of this case when he was on trial under indictment in the case where the issues raised were different than what are now raised before this jury.

The Court: Objection overruled.

Q. Now, Izell, you say that Captain Williams took you out four times, you remember distinctly, on Saturday night before you made the confession?

A. He didn't take me out, Mr. Marshall the jailer took me out.

Q. Captain Williams was the one that beat you?

A. Yes, sir.

Q. He was the one that beat you every time?

A. Every time I was taken out, with the exception of Monday the 15th of May.

[fol. 134] Q. That was the beginning of this week of beatings?

A. Yes, sir.

Q. Any of these other boys sitting here with you at the time Captain Williams would take you out?

A. No, sir, when I was taken out I was alone, with the exception of the fourth time I was carried out and told them I would say what they wanted me to say. So then they bring the three boys in.

Q. You say you were only taken out for a little time Saturday night before you made the confession Sunday, for a short period of time?

A. Yes, sir, I was taken out a short period of time until that Saturday night, could have been ten or fifteen minutes, I don't know how long I stayed out.

Q. Could it have been an hour?

A. No, sir, I don't believe it could have been an hour.

Q. You remember testifying in this case February 21, 1935, in Broward County?

A. Yes, sir.

Q. I will ask you if you remember this question, I will ask you if you recall these questions being asked by Mr. Maire and giving the following answers: "When did you first see Captain Williams that week? (A.) He was here the whole week. Every time I was carried out he was there. (Q.) Well was that at night? (A.) Night and day. (Q.) Captain Williams carried you out at night? (A.) Yes, he was there; every time I was carried out he was there. (Q.) Now getting back to Saturday night, May 20, 1933, what time of night did you see Captain Williams? (A.) All night long. (Q.) Well, what time the first part of the night? (A.) First part of the night, yes, sir, from Saturday night until Sunday morning. (Q.) Well you don't mean now you saw him—he wasn't with you all the time? (A.) All night long, yes, sir." You remember those questions and giving the following answers?

A. Yes, sir.

Q. Is that true or untrue?

A. Captain J. T. Williams was with me throughout the week, with the exception of Monday night.

Q. I am asking about this Saturday night?

A. That Saturday night he was there all night long.

[fol. 135] Q. What do you mean by telling the jury when he took you out on the fourth time it was fifteen minutes—could it have been all night?

A. No, sir I couldn't have been out there all night.

Q. Then this testimony that I have just read and the answers you gave, is that true or untrue?

A. He was there with me throughout the night.

Q. Now you want to say he was with you throughout the night?

A. He was, and that's what I have been testifying to in every trial, and it is true.

Q. You don't mean to tell this jury now that Captain Williams on this Saturday night that you testified to on February 21, 1935, that Captain Williams only took you out four times for ten or fifteen minutes at a time—

A. He didn't take me out; Mr. Marshall took me out. He beat me four times during the night.

Q. Did he beat you all night long?

A. He beat me each time I was called out.

Q. And fifteen minutes at a time, all night long?

A. He beat me each time I was carried out with the exception of the time he was questioning me, when he was trying to make me say I knew about the crime.

Q. I will ask you if you recall this question being asked you: "You mean that—well, did you see him at ten o'clock that night? (A.) Ten o'clock that night. (Q.) See him at 11 o'clock? (A.) Yes, sir, I seen him then. The only time I didn't see Captain Williams that night is when they carried me back to the cell to bring some of the other boys out." You remember that?

A. That's right; I couldn't see him when I was in the cell, because he stay- in the room during the time.

Q. But you did see him when he had you all night long Saturday night?

A. Every time he would bring me out in this room I saw Captain Williams.

Q. I will ask you if at the same time and place, February 21, 1935, you recall the following questions asked you and giving the following answers: "Well Judge Tedder asked [fol. 136] you when he went to sentence you if you had made these confessions freely and voluntarily? (A.) Well, if he did I don't remember. (Q.) Oh yes; he asked you didn't he that he wanted to know if anybody had bothered you or forced you— (A.) The prosecuting attorney, he asked me that morning. (Q.) And you told him, no? (A.) Yes, sir." You remember those questions and giving those answers?

A. I told the Judge I had been beat.

Q. I am asking you if you remember the questions being asked you?

A. I don't remember the Judge asking me had I been beat or made a free and voluntary confession.

Q. You remember the prosecuting attorney asked you that morning and you said no, you had not been beaten?

A. I remember the prosecuting attorney questioning me but I don't recall just what he said.

Q. And you can't recall just what you answered?

A. No, sir, because what I said—Captain Williams he said that, because they was going to kill me, so I forgot what he told me to say.

Q. You recall every single thing Captain Williams told you, don't you?

A. No, sir, I don't, because what he told me to say it was untrue and I can't remember.

Q. You remember enough though to get up in this court room and recite what Captain Williams had told you to say and what was taken down here in your confession?

A. No, sir, during the time the prosecuting attorney was there, Mr. Maire was questioning me that morning, I would forget what Captain Williams had told me to say, then he would tell the prosecuting attorney just what to say, as if it was me talking to him, and the prosecuting attorney told Mr. Williams "will you please stop interrupting me until I get through questioning him."

Q. Do you mean to tell this jury that Mr. Maire, the State Attorney, let Mr. Williams tell him what to put down in the confession?

A. He did until Mr. Maire interrupted.

[fol. 137] Q. You recall when you were taken before Mr. Maire he asked you this on May 21st: "Your name is Izell Chambers? (A.) Yes, sir. (Q.) Do you want to tell about the case involving the holdup of Mr. Darcy at Pompano on Saturday May 13th 1933? (A.) Yes, sir. (Q.) What you are going to say you are going to say it because you want to say it and not because anybody had beat you or abused or hurt you or anything? (A.) No, sir, they haven't. (Q.) In order to get you to make a statement has anybody promised you anything, any reward or favor? (A.) No, sir. (Q.) Nobody has mistreated you, beaten you or abused you in order to induce you to make a statement? (A.) No, sir. (Q.) And whatever statement you make you are making it of your own free will and accord, voluntarily and of your own free will? (A.) Yes, sir." You remember Mr. Maire, sitting here, asked you those questions and you giving those answers to Mr. Maire?

A. He asked me a lot of questions, and that's the first time I ever been in a court house or jail; I don't remember now what he said. I know he questioned me.

Q. You don't remember what you answered?

A. No, sir, I don't remember.

Q. Did Captain Williams tell you to tell Mr. Maire that people hadn't beat you?

A. Yes, sir, he told me to tell them just what he wanted me to say.

Q. You are sure that Captain Williams told you to say that?

A. Yes, sir.

Q. What else did he tell you to say?

A. I don't know, but he just told me to tell Mr. Maire just what he wanted me to say.

Q. And did he relate to you what he wanted you to say?

A. He had primed me what to tell Mr. Maire before he came in.

Q. Did he tell you to tell Mr. Maire you had helped hold up Mr. Darcy?

A. I don't think he told me that, but he told me—

Mr. Catts: Object.

[fol. 138] Q. Did he tell you to tell Mr. Maire that he hadn't beaten you?

A. He told me I better not tell Mr. Maire he had beat me, or either the jury, if I did I wouldn't live.

Q. When did he tell you that?

A. He told me the same time he was telling me what to tell Mr. Maire.

Q. That was when?

A. On the 21st morning of May, 1933.

Q. Was that the first time?

A. No, sir, he told me I had better not tell it throughout the night when he was telling me what to say, if I told I was either beat or forced to say anything they would kill me or turn me over to the hands of the mob.

Q. This you say was Saturday night?

A. Yes, sir, it was on the 21st morning of May, which was on Sunday morning.

Q. Do you recall the date that you made this confession before Mr. Maire?

A. Yes, sir.

Q. What date was it?

A. On the 21st morning of May.

Q. You remember that?

A. Yes, sir.

Q. You remember the date that you were tried before the jury down before Judge Tedder in Broward County?

A. I remember when I went on the stand.

Q. Before a jury?

A. Yes, sir.

Q. Looked just like this jury, twelve men?

A. There was twelve men, yes, sir.

Q. You remember that date?

A. Yes, sir.

Q. That was when?

A. It was on the 12th of June, 1933.

Q. Did Captain Williams or the Sheriff or anybody else beat you at any time from the time you made your confession in May up to June 12, 1933?

A. Well from the time that I had made the confession until the 12th of June they keep me in Miami jail until that date, and during the time I was down there in Miami jail Sheriff Walter Clark and Mr. Virgil Wright came down there to see me. While being there they told me I better not get up on the stand on the 12th of June and say I was beat and forced to say what I did say, if I did I wouldn't live to get out of the Court house, they would kill me. Also [fol. 139] Captain Williams he came down to Miami and visited me down there, and he told me the same thing that Captain Wright and Sheriff Clark told me.

Q. You mean that's why you didn't say anything on the 12th of June when you were tried?

A. Yes, sir, because they said they would kill me, and that's just what they said.

Q. As I understand, you are telling the jury the reason that you let that period of time elapse from the 21st of May until the 12th of June; I believe you said you were in Miami jail?

A. Yes, sir.

Q. And the reason you still didn't tell Judge Tedder, you still didn't tell your attorney and you still didn't tell the jury, was because Sheriff Clark, Captain Williams and somebody else came down to Miami and told you if you did you wouldn't get out of the court house alive in Broward County?

A. I told this man what they said that was appointed by the court to represent me, I told him that I had not been treated right, I had been forced to say what I said, and on my last trial in February this lawyer got up on the stand

and said I didn't tell him anything, Mr. Griffis I believe is his name. He denied I had told him anything. The only thing this man told me, he told me to get up there, to just get up before the Judge and tell the Judge I was guilty, he tried to get me to plead guilty to aiding and abetting, and I told him I didn't want to; and he told me to get up and plead guilty to being accessory to the fact, and I told him I didn't know what that was, and why would I plead guilty. I think he was a very poor lawyer.

Q. Well did you as a matter of fact attempt to tell the Judge, or attempt to tell the jury at your trial on June following the time you made the confession, that anybody beat you or laid a hand on you?

A. Did I attempt to tell him?

Q. Yes. Or, on the contrary, didn't you say they hadn't?

A. Well, that's why I say I didn't have a trial because if I have a trial I would have free privilege to tell what happened to me throughout the week.

[fol. 140] Q. Didn't you get on the stand and testify when you were tried in June, after the following May that you made the confession?

A. Beg your pardon?

Q. Were you permitted to testify on the stand; you testified before the Judge?

A. Yes, sir, I was permitted to get on the stand.

Q. When you got on the stand did you attempt to say you had been beaten when you had given that confession before Mr. Maire?

A. No, sir, I did not. They said if I told it they would kill me.

Q. Turn around. Where did you get that scar on the back of your neck?

A. That scar was put on me before I got in prison.

Q. They didn't do that to you?

A. No, sir.

Q. Let's see the scar they did?

A. That scar right there.

Q. What did they do that with?

A. I was kicked there.

Q. Wasn't cut there?

A. No, sir, I wasn't cut.

Q. That's from a kick?

A. Yes, sir, from a kick.

Q. What's that on the back on the back of your neck?

A. That's from a cut.

Mr. Catts: Object to that question.

The Court: Objection overruled.

Q. Now let's get back to Saturday night before Sunday when the confession was made. I want to find out now how many times you were taken out; as I remember it was four?

A. Yes, sir.

Q. Now can you recall about how long at a time you were kept out by Captain Williams these four times on Saturday night, before Sunday morning you made the confession?

A. I didn't have a timepiece; I don't know just how long.

Q. Well, could you judge how long?

A. I might make a mistake on it,

Q. Was it all night long-like you said—you recollect this testimony taken in the other case?

A. Yes, sir.

Q. Was it all night long?

A. I couldn't have stayed out all night long before being [fol. 141] taken back to my cell. I mean I was carried out throughout the night.

Q. That was before you made this confession before Mr. Maire?

A. I was taken out three times before that.

Q. Now when you were taken down in the court room when you said you refused to plead guilty; you recall that time?

A. When I was taken down to plead guilty?

Q. Yes, and you refused to, and you plead not guilty?

A. Yes, sir.

Q. Wasn't Captain Williams in the court room?

A. Yes, sir.

Q. Wasn't Sheriff Clark in the court room?

A. Yes, sir.

Q. You weren't afraid then?

A. Yes, sir, that's the reason I didn't even plead guilty, I didn't plead guilty because—

Q. Didn't you just tell this jury they would do all these things to you if you didn't plead guilty?

A. Yes, sir.

Q. But nevertheless you plead not guilty?

A. I plead not guilty.

Q. Now why was that; did you lose your fear of Captain Williams?

A. No, sir, I still had the same fear, will always have that fear.

Q. Then why did you change your mind and plead not guilty?

A. The reason was because they was not beating me at that time, but they did say they would kill me if I didn't plead guilty before the Judge.

Q. Didn't you just tell the jury before you went down to the court room Captain Williams came up to your cell and made these threats, and told you to stick to your story of being guilty?

A. Yes, sir, he did, but I did not.

Q. You had lost your fear of Captain Williams?

A. No, sir, I still had the fear and will always have it.

Q. I will ask you if you remember on the last trial of this case in February, 1935, the following questions being asked you and the following answers being given: "Was Captain Williams in the court room that morning when you were [fol. 142] tried? (A.) Yes, sir, he was in the court room when I was tried. (Q.) Where was he sitting? (A.) I disremember where he was sitting at. (Q.) Was he sitting on the bench or among the officers? (A.) He was on the seat when they called him to the stand; I remember seeing him on the stand. (Q.) Did you know he was in the court room when you were being tried? (A.) No, sir, I didn't know it until he came up on the stand. (Q.) Well you knew it then, didn't you? (A.) Yes, sir, I knew it then, but I had already been called upon the stand and went down." You had already testified by the time you saw Captain Williams in the Court room?

A. The day I was tried they had put me in a padded cell, and Captain Williams came up there right in front of the cell that morning and told me not to forget what he had told me to say on the stand. I had seen him before I was taken down to court that day.

Q. Now I want to get back again to Saturday night and see if I can refresh your memory about how long a time you were out with Captain Williams. I ask you if you remember the last time you testified on the trial of this case in February of last year in Broward County: "What time did you say they first took you out of your cell? (A.) I was out all night. (Q.) Didn't you tell your counsel that they had you

out at 10 o'clock? (A.) I was out at that time, yes sir. (Q.) Do you think they had you out as early as 9 o'clock? (A.) Nine o'clock that Saturday night? (Q.) Yes. (A.) Nine o'clock that Saturday night I was out."

Mr. Catts: Object to the repetition. He has already asked that.

The Court: Objection overruled.

Witness: Yes, sir, I told him I was taken out about nine o'clock that night, and I told it in every statement I made on the stand.

Q. Were you also taken out at ten o'clock?

A. I was taken out throughout the night.

Q. Were you taken out at eleven o'clock?

A. I was taken out throughout the night.

Q. Were you taken out at twelve o'clock?

A. I was taken out throughout the night, four times during that time.

Q. You know Mack Little?

A. Yes, sir.

[fol. 143] Q. And Frank Manuel?

A. Yes, sir.

Q. You ever had any trouble with these two boys?

A. Never had any trouble with them in my life. I only saw Mack Little when I saw him in jail.

Q. You have known him since then?

A. No, sir, I don't know him now, I only just have seen him a good bit of times.

Q. You know him by sight?

A. Yes, sir, by sight.

(Witness excused.)

Recess five minutes.

CHARLES H. GORDON, being first duly sworn by the Clerk, testified on behalf of the petitioners as follows:

Direct examination.

By Mr. Catts:

Q. Your name is Charles H. Gordon?

A. Yes, sir.

Q. What official position, if any, do you hold in Broward County, Florida?

A. Deputy Clerk in the Clerk's office. I handle all the legal work, criminal jury trials, etc.

Q. How long have you been Deputy Clerk in Broward County?

A. Eleven years.

Q. Do you know one Captain J. T. Williams, a former convict guard that testified in these cases down in Broward County, by sight?

A. I know a man by that name, that I understood to be J. T. Williams, a convict foreman, or foreman of a convict camp, something like that.

Q. He testified in these particular cases?

A. I can't recall, we have been in so many of these trials that I don't remember, but I think perhaps he was in the first one, while I am not sure.

Q. Will you please describe to this jury the appearance of that man, as well as you remember, and what size man, his appearance in general, and anything else that you know of his looks?

A. Well, I didn't pay much attention to him, but he seemed to be a man perhaps forty or forty-five years old—of course that's guess work—a reasonably large fellow, well [fol. 144] proportioned, and I suppose would weigh 200 or 225 pounds. He represented or appeared like he was, or had a field position in charge of a convict crew, and also I think he had a couple of blood hounds that he sold later to the County.

Q. Did he take the blood hounds with him?

A. No, I think Broward County bought them at the time. I don't recall.

Q. Just what do you mean he appeared to have a field job of a convict camp, just explain that to the jury?

A. Well I understood he was foreman and had been with the State road department perhaps several years, and had been located up in this County, perhaps west of Boynton or Delray, and he looked like he would be well suited for such a position.

—Q. You mean by that he was a man of temper or harsh—

* Mr. Salisbury: Object on the ground it calls for the conclusion of the witness, and has nothing to do with the issues involved in this hearing.

Q. Just explain to the jury from anything you know or that you saw of him, the type of man he was, Mr. Gordon?

Mr. Salisbury: Same objection.

The Court: Has any effort been made to subpoena him?

Mr. Salisbury: He has been subpoenaed by both sides.

The Court: He is not here.

Mr. Salisbury: We have been unable to locate him anywhere.

The Court: Objection sustained.

Mr. Salisbury: No questions.

(Witness excused.)

Petitioners rest.

[fol. 145] ELBERT B. GRIFFIS, being first duly sworn by the Clerk, testified on behalf of the State as follows:

Direct examination.

By Mr. Maire:

Q. Will you please state your name?

A. Elbert B. Griffis.

Q. Where do you live?

A. Fort Lauderdale, Florida.

Q. What is your occupation or profession?

A. Attorney at law.

Q. How long have you been an attorney at law?

A. About eleven years I have been practicing.

Q. How long have you been practicing in Fort Lauderdale?

A. Eleven years.

Q. Do you remember representing any of the petitioners in this case at the original trial?

A. Yes, sir.

Q. Who?

A. I represented Izell Chambers and Charlie Davis.

Q. Prior to the time they were arraigned did you as such attorney have any consultation with your clients?

A. I did.

Q. You remember how many times?

A. Twice.

Q. Who was present when you talked to them?

A. At the first conference there was no one present that was close enough that they could hear what we were talking of but myself and the particular defendant that I was talking to; I talked to them separately.

Q. Was Captain Williams present where he could hear what was said?

A. No one could hear what was said.

Q. Except you and your client?

A. Except me and the client.

Q. Did you discuss the case with them?

A. I did.

Q. Was anything said at that time about a confession?

Mr. Catts: Object to that on the ground that any communication between this attorney and any client is a privileged communication. The second ground that we want to raise and get it in the record some place—counsel has not asked the question yet, but I think it is the proper time to do it—there is nothing of record in the case to show this attorney was ever appointed by any court to represent the [fol. 146] petitioners, nothing in this record any place to show this attorney was ever appointed by any court to represent these petitioners.

The Court: Have not each of these petitioners already testified as to their conversation with Mr. Griffis and Mr. Mather?

Mr. Catts: For the purpose of the record only, we would like at this time to have the fact established in this case before this jury, that the record does disclose—the Court has the record before him—that there has never been an order which the statute requires to be entered by the Court, appointing a lawyer to represent either of these defendants in the capital case in which they were before the court.

The Court: Regardless of the fact that he did act as counsel for the defendants; not that he didn't act as counsel, but he wasn't appointed by the court?

Mr. Catts: Yes, sir, he wasn't appointed by the court.

The Court: Objection overruled. You may proceed.

(Question repeated.)

A. Yes.

Q. State what one and who you were talking to?

A. Well, I talked to each one of the defendants separately, and I made the statement to each of them that I understood

that the State claimed to have confessions from each one of them.

Q. Did they make any statement then?

A. Well, I stated to them, each one of them that if those confessions had been forced by any threats, they had been beaten or they had been promised anything, that I wanted to know it at that time. Shall I state what they said, if your Honor please?

The Court: If there is no objection.

Mr. Catts: We object on the ground he has never been appointed by the court to represent them, and on the ground it is privileged.

The Court: Objection overruled.

[fol. 147] Witness: Each one of them stated to me they had not been promised anything, neither had they been forced or threatened, or in any way coerced or compelled to make a confession.

Q. Did you talk with them at any subsequent time, that is, before they were taken to court room to be arraigned—just a moment, did you tell them what your connection with the case was?

A. Yes, sir, I told each one of them that the court had appointed me to represent them, and I also asked them if they had other counsel, or intended to get other counsel; that was before they were taken to the court room to be arraigned. After they were taken into the court room there was something said about some of them wanted to plead guilty, and at that time, with the permission of the court, we took them, Mr. Mather, who represented the other two defendants, and myself, we took them into a room adjoining the court room which they used as a witness room, and out of the presence of everybody else, we went into the question of the advisability of whether they should enter pleas of guilty or not guilty at that time. I told the two I was representing, as near as I could, what in my opinion would be the effect of their plea. I explained to them as near as I could see the advantage or disadvantage perhaps of entering the plea of guilty or not guilty. I explained to them also very fully that if any one had promised them anything, or threatened them, or in any other way to get them to plead guilty, that they must not plead guilty on that account. I specially stressed this point, that if any one

had told them they would use their influence with the court to get him to lighten their sentence or punishment in any way that they must not rely—I told them first they could not depend on what was told because it would probably be by officers who were prosecuting officers of the court, and, second, that the Judge would not listen to them, anyway they never would be permitted to talk to the Judge. Immediately after that—I will go back a little bit. I told them as far as pleading guilty or not guilty was concerned that I [fol. 148] couldn't advise them, and after I had told them what the effect would be, that it was up to them. I explained to them that *that* they were each one entitled to a trial by jury. Then after this conference we went into the court room, at which time pleas of not guilty were entered by both of the defendants that I represented. That, as I remember, was about the 24th or 25th of May; the trial was set for about somewhere between the 10th and 15th of June. I talked to them afterwards as to whether they had any witnesses, whether any one knew anything about the case, and if they wanted to summon any of them; they said they didn't. I believe Charlie Davis said something about he might want to communicate with his father or some relative, and I told him to let me know about that. But each one said there were no witnesses and nobody knew anything about the case. I had no information or knowledge of anybody that could testify to anything of value to the defendants. Then I was over there another time, I saw Izell Chambers and Charlie Davis. Then one day the Sheriff came by and said that Charlie Davis wanted me to come over and talk to him. The Sheriff said he thought Charlie Davis wanted to change his plea. I went over at that time and talked to him again, and I cautioned him very carefully against listening to any promises that anybody might have made with reference to getting him to enter the plea of guilty, that is, changing the plea which had previously been entered. He told me at that time he had definitely made up his mind he wanted to change his plea, and give as his reason that he thought that the Judge would be more lenient than the jury would. Well of course you understand that the way I saw it, that having these confessions and also understanding there were no corroborating circumstances, that it was a question which I couldn't answer, as to whether the Judge would be more lenient than the jury, and his judgment on that I thought was as good

as mine; I thought so at the time. Consequently, at the time the case was set for trial, and upon his express request, I asked the Court to change the plea of not guilty [fol. 149] to the plea of guilty. Of course Izell Chambers went to trial on that day.

Q. Were they advised of their constitutional rights by Judge Tedder at the time they were arraigned?

A. Yes, Judge Tedder advised them of their rights.

Mr. Catts: Object to that.

The Court: Objection sustained.

Q. Did you as their counsel advise them of their constitutional rights before arraigning?

A. I also stated that and that they had a right to trial by jury.

Q. Did you see any signs of fresh scars on the body of either of them?

A. No, sir, I did not.

Q. At any time?

A. No.

Cross-examination.

By Mr. Catts:

Q. Did you ever have any talk with either of these boys that you now represented before the day on which they — to be arraigned?

A. No.

Q. What time of day were they actually arraigned?

A. I couldn't say, but judging from the usual procedure, I would say it was some time after eleven o'clock.

The Court: Does the record show that date?

Mr. Catts: Yes, sir, the record shows the date.

The Court: What was it?

Mr. Maire: May 24, 1933. It doesn't state the time but it was ten o'clock, I am sure, Wednesday, May 24.

Q. What time on that day did you first talk to either of these petitioners, and where?

A. As near as I can remember, it was about nine o'clock. The court usually begins at about 9:30. As I remember I got there some half hour before the court usually opens in order to get a chance to talk to these men. As I recall,

Judge Tedder notified me the afternoon before of the fact that I had been appointed.

[fol. 150] Q. State the fact of that notification?

A. Judge Tedder, I don't know whether he was on his way up town or on his way back from up town, back to the court house, but he came by the office. At that time my office was on Andrews Avenue, second floor up, near the river. As I remember I had started up the stairs as Judge Tedder came along the sidewalk and called me, and I believe we stopped on the sidewalk there and talked.

Q. And what did Judge Tedder say at that time about the case?

A. Judge Tedder told me that he had appointed me to defend two of the defendants.

Q. Tell you which two?

A. I can't remember, Mr. Catts, but I have a hazy recollection he said he didn't remember which ones he had designated me to represent, but I could find out from the clerk.

Q. How did you find out which two you were to represent?

A. As I remember, he said I could find out from the clerk of the court, or from somebody, it was the clerk I believe.

Q. Did you ever ask the clerk who you would represent?

A. As I remember, I inquired the next morning of Mr. Charles Gordon, the deputy clerk, before I went upstairs to see these prisoners, and he told me the names of the ones I represented. You understand this has been three or three and a half years.

Q. Now, as a matter of fact don't you know the record down there don't show that you were ever appointed?

A. I don't know that.

Q. Have you ever made an examination of the record?

A. No, I haven't.

Q. To determine that fact?

A. No; in fact when you mentioned it this morning was the first time I didn't know the record didn't show it.

Q. Then on the morning on which they were to be arraigned which one did you talk to first?

A. I can't remember, Mr. Catts.

[fol. 151] Q. Mr. Griffin, did you say the first time you talked to these boys, did you talk to them alone?

A. I will tell you where I talked to them. There is a corridor running from the jail into the Circuit Court room. These prisoners were brought out of the jail, and were brought up to the door of the court room, and then I called

each one of these prisoners off by himself, those two I represented, to the other end of the corridor, out of the hearing of the officers, who had other prisoners in charge near the door of the court room.

Q. I believe you testified a few minutes ago that after the arraignment day on which both the defendants that you represented pleaded not guilty, that word was brought you by the sheriff that one of them wished to change his plea?

A. That's right.

Q. I will ask you to state to the Court and jury if at that same time Captain Williams accompanied Sheriff Clark?

A. I believe that he did. I think that's the first time that I met Captain Williams, and I was introduced to him at that time. I didn't know who the man was and I didn't know what connection he had with the case. He was with Sheriff Clark.

Q. Had you from the time these boys were arraigned until the day they sent you word, or word was brought to you by the Sheriff and Captain Williams they wished to change their plea, had you in that interim talked with either of these boys?

A. I don't believe I had because that was just a few days afterwards.

Q. Then of your own knowledge you don't know of anything that happened to this boy during the interim that caused him to want to change his plea?

A. No.

Q. When Izell Chambers was tried did you make an argument to the jury?

A. I made a short argument, and about the only argument I could make. My argument was based upon—

Q. I didn't ask you that.

A. Pardon me.

Redirect examination.

By Mr. Maire:

Q. I show you at this time a transcript of the proceedings [fol. 152] and a certified copy of the minutes of the Circuit Court, page 469. Will you examine that please, sir?

(Witness examines.)

Q. Does that show who you were appointed to represent?

A. It seems to.

Mr. Maire: I want to offer that in evidence at this time.

The Court: Just stipulate and put it in the record.

Mr. Catts: I stipulate that portion of the record speaks the truth of what happened there that morning. I want to stipulate the same thing with regard to Mr. Mather. I would like to do this, I would like to stipulate to put the whole of the record in this case in. We would have to put the record in to show there is absence of any appointing.

Q. After you were told that Charlie Davis wanted to change his plea, did you confer with him?

A. Yes, sir, I went over there and talked to him quite a while.

Q. Did he make any statement to you at that time as to why he wanted to change it?

A. Nothing except that he thought the Judge would be lighter on him than the jury would be.

Q. Did he tell you he was beat or coerced or promised anything?

A. He didn't state that he had been promised anything to get him to change his plea. I went into that very carefully, if he had been promised anything.

Recross-examination.

By Mr. Catts:

Q. Mr. Griffis, down there at the last trial of this case that was held on the 21st day of February, 1934, at that time did you know, when you were testifying before the Court in this case, who you had represented by name?

A. As I recall, when the question was first asked—you see these names are all together, they were all tried down there together, and at that time I was doubtful as to one of their names. However, when I looked the men over I could pick out the face of the man I did represent.

[fol. 153] Q. You didn't know in your own mind the name of the man you had represented in the first degree murder charge?

A. If you will remember these men were all together there.

Q. They are still altogether, aren't they?

A. Yes, sir. At the time I couldn't recall the names because each man, his name was just as important as the other. When I looked at the men I knew who they were I think.

Q. The question I asked you, did you know, in the trial of the case at that time, the last trial in Broward County, the

names of the two men whom you had represented in the first degree murder case?

A. Of course I knew Izell Chambers.

Q. Did you know him by name? Did you tell the court the names of the men you had represented?

A. Yes, sir.

Q. And did you do that in this record?

A. Certainly I did, but I was doubtful whether Jack Williamson or Charlie Davis was the name of the man that I represented.

Q. You came to the conclusion at the last trial which particular one it was by name and by sight?

A. By looking at them.

Q. And you found his name out at that time before that court down there in the last trial; you made up your mind definitely as to his name at that time which was some two years after the time you had represented him?

A. Yes, sir.

(Witness excused.)

STIPULATION

It is stipulated between counsel for the State and the petitioners that the certified copy of the transcript of the record in the Broward County Circuit Court does not show the formal order appointing counsel to represent either of these petitioners (the defendants in that court) was ever entered by the Circuit Court of Broward County.

[fol. 154] FRANK MANUEL, being first duly sworn by the Clerk, testified on behalf of the State as follows:

Direct examination.

By Mr. Salisbury:

Q. State your name.

A. Frank Manuel.

Q. Where do you live?

A. Pompano.

Q. You remember the time that Mr. Darcey was robbed and killed?

A. Yes, sir.

Q. Did the Sheriff's officers pick you up at that time?

A. No, sir, they picked me up that Sunday night.

Q. That Sunday night right after Mr. Darcey was killed?

A. Yes, sir.

Q. Did they confine you in the Broward County jail?

A. Yes, sir.

Q. How long were you in jail?

A. I was in there thirty two days.

Q. During that period of thirty two days—first let me ask you, do you know Mr. Walter Clark, the sheriff?

A. Yes, sir.

Q. Is this Mr. Clark sitting here?

A. Yes, sir.

Q. You know Captain Williams?

A. Yes, sir.

Q. You know Mr. Marshall, the jailer?

A. Yes, sir.

Q. You know who Mr. Bob Clark is?

A. Yes, sir.

Q. During the thirty two days that you were confined in jail, were you questioned by any of these officers I have just named regarding the death of Mr. Darcey?

A. Yes, sir.

Q. During any time, that thirty two days period when you were being questioned, did they question you off and on?

A. Yes, sir, they questioned me.

Q. How long a time would you say they questioned you?

A. About fifteen minutes.

Q. During any of the time that they questioned you did any of these officers I have named, or any other person in Broward County jail, beat you or threaten you?

A. No, sir.

Q. Do you know these four defendants sitting over here?

A. Yes, sir.

Mr. Ziegler: Object to this testimony, it is irrelevant and [fol. 155] immaterial to the issues in this case.

The Court: You mean the last question or the one before?

Mr. Ziegler: The one before.

The Court: Objection sustained. Answer stricken.

Q. You know these four defendants sitting over here?

A. Yes, sir.

Q. Where did you see them?

A. In the jail house.

Q. At the time you were confined?

A. Yes, sir.

Q. Where were you confined in the jail; where did they keep you in the jail?

A. Well they kept me in the cell.

Q. Where in relation to these four defendants sitting over here?

A. They was in there?

Q. In there with you?

A. Yes, sir.

Q. Did you see them during that whole thirty two days you were in jail?

A. Yes, sir.

Q. Did you see them every day?

A. Yes, sir.

Q. At any time, in your presence, did you ever see any officer I have mentioned, or any other officers, or any one else in the Broward County jail, beat or threaten any of these four boys sitting over there?

A. No, sir.

Q. Did you hear anybody in the jail there, the Sheriff or Captain Williams, or anybody else, promise them anything?

A. No, sir.

Q. While you were in the cell there with them?

A. Yes, sir.

Q. Did you ever see any one beat any one of these boys?

A. No, sir.

Q. Did you ever see any marks on any of their bodies?

A. No, sir, no more than the same marks that was on him, on Jack.

Q. What did you say?

A. I ain't seen no marks no more than what was on Jack, an old mark.

Q. You mean you noticed these marks in jail?

A. Yes, sir.

Q. You say they were old marks?

A. Yes, sir.

Q. Did he happen to tell you how he got them or when?

A. No, sir, he didn't tell me.

Q. When did you first notice these marks? When did they arrest you?

A. On Sunday night.

[Vol. 156] Q. The same time they arrested these boys?

A. Yes, sir.

Q. Did you notice these old marks on Jack Williamson at that time?

A. Yes, sir.

Q. Did you ever at any time see any fresh marks, or bruises on them?

A. No, sir.

Q. At the time when he was confined in the same cell with you during that thirty two days tell you that any of the officers I have mentioned, or any one else, had beat him?

A. No, sir.

Q. Tell you they had threatened him?

A. No, sir.

Q. Tell you they had promised him anything?

A. No, sir.

Cross-examination.

By Mr. Catts:

Q. Where were you arrested from?

A. Pompano.

Q. What time of night?

A. About nine o'clock.

Q. And what was done with you when they first arrested you?

A. They take me up there to Pompano jail house.

Q. Who took you up there?

A. Mr. Bob Clark.

Q. And some other officers?

A. And Mr. Maddox.

Q. Anybody else?

A. No, sir.

Q. Just the two officers?

A. Yes, sir.

Q. What house in Pompano were you arrested?

A. I was home in bed.

Q. Where did you live?

A. I lived in James Little's.

Q. You know where Walter Woodward lived?

A. Yes, sir.

Q. How far from where Walter Woodward lived?

A. About half a mile.

Q. Did Walter Woodward live between you and the jail in Pompano?

A. Yes, sir.

Q. Were you handcuffed?

A. Yes, sir, I was handcuffed.

Q. They handcuffed you when they arrested you?

A. Yes, sir.

Q. On the way to Pompano jail did they stop and pick up anybody else?

A. No, sir, not with me.

Q. They took you right to Pompano jail?

A. Yes, sir.

Q. And then what did they next do to you?

[fol. 157] A. They questioned me and took me over.

Q. Who questioned you in Pompano jail?

A. Mr. Maddox.

Q. What did he say to you?

A. He asked me did I know anything about that.

Q. What did you tell him?

A. I told him, no, sir.

Q. How many times were you questioned?

Mr. Salisbury: If he wants to open this up, we are agreeable, but we object on the same grounds he objected.

The Court: You want to go into the treatment of this witness by the officers?

Mr. Salisbury: We will agree to that.

Mr. Catts: I am just testing his credibility.

Q. After you were taken out of the jail there at Pompano what did they do with you?

A. They didn't do nothing there only talk with me.

Q. Where did they carry you?

A. They carried me to Lauderdale.

Q. Didn't you state they went to get Walter?

A. Yes, sir, they went down there and got them.

Q. Where did they get Walter from?

A. Over in Mr. Blount's quarters.

Q. What did they do with you while they went to get Walter?

Mr. Salisbury: Object.

The Court: Objection overruled.

Q. What did they do with you while they went to get Walter?

A. Didn't do nothing with me; left me in the car.

Q. Who was left there in the car with you?

A. Mr. Goodrich.

Q. If Mr. Goodrich comes on the stand and says he hit Walter on the foot with a strap, he didn't do it; he didn't leave the car, he stayed there in the car with you; is that right?

A. Yes, sir.

Q. When you were first taken to Broward County Jail where did they put you?

A. They put me in a cell.

Q. What cell?

A. I don't know.

[fol. 158] Q. Were you taken on the first floor, second floor, third floor or fourth floor?

A. On the first floor.

Q. They put you in a cell in the bull pen?

A. No, sir.

Q. In a cell by yourself?

A. They put all four of us in there together.

Q. In a cell?

A. Yes, sir.

Q. And how long did they leave you in that cell?

A. All night.

Q. They didn't take any of you out of that cell that night?

A. Yes, sir, they questioned us.

Q. Did they take you out of the cell; did they take any of these boys out of the cell that night?

A. They took them out and questioned them.

Q. How do you know they questioned them; where did they take them?

A. In the room.

Q. Did you hear them when they questioned them?

A. Yes, sir.

Q. How far was the room where they took them to?

A. We was in the room together.

Q. Well did they take all of them out into the room out there?

A. No, sir.

Q. Take them out one at a time?

A. Two at a time.

Q. Was anybody in the cell besides you and these boys?

A. Yes, sir.

Q. How many people in the cell that night?

A. I don't know.

Q. Did you mean to tell the jury a few minutes ago that they kept all these boys here in that same bull pen or in the same cell with you for that whole week, for thirty two days?

A. We was in the cell, we could go in the cell.

Q. That's what they call the bull pen, isn't it?

A. I don't know nothing about no bull pen.

Q. Tell the jury what kind of a place they had you in; have more than one bunch of cells in there?

A. Yes, sir, there was more than one cell in there.

Q. And in each one of the cells three or four people would sleep?

A. Yes, sir.

Q. And they had several of those?

A. Yes, sir.

[fol. 159] Q. That's where they had all of you?

A. Yes, sir.

Q. Did they keep all of you in there for the whole thirty-two days you were there?

A. No, we stayed in jail—

Q. I mean in the cell where you were?

A. No, sir, I was over in one cell.

Q. Did you see these boys every day?

A. Yes, sir.

Q. Every day?

A. Yes, sir.

Q. All of them?

A. Yes, sir.

Q. What time did you see Izell Chambers on Monday, the first Monday after they were put in there?

A. I see him Monday morning.

Q. Did they take him out of there that day?

A. Yes, sir, they took him out.

Q. When did they take him out?

A. I don't know.

Q. How long did they keep him about?

A. Fifteen minutes.

Q. And then they brought him back?

A. Yes, sir.

Q. You see him at supper time that night?

A. Yes, sir.

Q. Was Jack Williamson there that night?

A. Yes, sir, he was in there.

Q. Did they take him out that night, that Monday night?

A. Yes, sir.

Q. How long did they keep him out?

A. About fifteen minutes.

Q. And then they brought him back?

A. Yes, sir.

Q. Was he there at breakfast on Tuesday morning?

A. Yes, sir.

Q. Both of them?

A. Yes, sir, all of them.

Q. All four of them there at breakfast on Tuesday morning?

A. Yes, sir.

Q. This was Tuesday after you were put in there on Sunday night; you know they were there with you?

A. Yes, sir.

Q. And were there at lunch time on Tuesday?

A. Yes, sir.

Q. As a matter of fact don't you know two of these boys were carried down to Dade County jail and stayed there from Monday evening until Tuesday about one o'clock, don't you know that of your own knowledge?

(No answer.)

Redirect examination.

[fol. 160] By Mr. Salisbury:

Q. During the thirty two days that you claim you were in jail, during any of the thirty two days when they had you in the Broward County jail, and while you were in the cell, or in the same cell block with these four boys sitting over here, did any of the officers around the jail beat you?

Mr. Catts: Object.

The Court: Objection sustained.

Q. Who else was in that same cell block with you; you remember whether or not James Little was?

A. Yes, sir.

Q. You remember whether Willie Henderson was?

A. Yes, sir.

Q. You remember whether Mack Little was?

A. Yes, sir.

Q. You know Lonnie Jackson?

A. Yes, sir.

Q. Was he in there some time?

A. Yes, sir.

Q. You remember Ed Hamilton?

A. Yes, sir.

Q. And Fritz Douglas?

A. No, sir, I don't know him.

(Witness excused.)

JAMES LITTLE, being first duly sworn by the Clerk, testified on behalf of the State as follows:

Direct examination.

By Mr. Salisbury:

Q. What is your name?

A. James Little.

Q. Do you know Izell Chambers—you know all four of these boys sitting there?

A. Yes, sir, just by name.

Q. You know their names. What are their names?

A. Izell Chambers there, next to him Walter Woodward and next to Walter is called Jack Williamson, and the other they call Charlie Davis.

Q. You remember when Mr. Darcey was killed?

A. Yes, sir.

Q. Were you picked up at that time by the Sheriff's officers?

A. Yes, sir.

Q. Did they put you in jail?

A. Yes, sir.

[fol. 161] Q. Where did they put you in relation to where these four boys were in the jail?

A. Me and Charlie over there was in the same cell.

Q. In the same cell?

A. Yes, sir.

Q. Was that a room cell or did it open out?

A. It opened out just like going out here.

Q. Where were these other boys kept in jail in relation to your cell; could they all go into this bull pen together that the cells opened on?

A. Yes, sir, for a few days.

Q. How long were you in jail?

A. Eight days.

Q. And when were you put in jail?

A. Put in jail on Sunday night.

Q. Was it the same night these four boys were put in jail?

A. Yes, sir.

Q. You were there then in jail from Sunday for a period of eight days, in other words, until the following Monday?

A. Sure.

Q. Until the following Monday?

A. Yes, sir.

Q. During that time did you have frequent opportunity to see these four boys sitting over there?

A. Yes, sir.

Q. Did you at any time see any of the officers, or any one else in Broward County jail, beat or threaten any of these four boys in your presence?

A. No, sir, not in my presence.

Q. Did you ever see any marks or bruises on any of these four boys, did you see any blood on their clothes?

A. No, sir.

Q. During the eight days period?

A. No, sir, I ain't seen but the one with the scar on him.

Q. And you saw what?

A. The scar on Charlie Davis; it was an old scar on the back of his head.

Q. He had that scar when he was in jail?

A. Yes, sir.

Q. Did Charlie Davis, during the time you were roommates in the cell, and the other boys during the time you mingled with them in the courtyard, tell you any of these officers or any one had beaten them or threatened them or promised they anything?

A. No, sir.

[fol. 162] Cross-examination.

By Mr. Catts:

Q. You say you were arrested on Sunday night?

A. Yes, sir.

Q. At Pompano?

A. Yes, sir.

Q. That's where you live?

A. Yes, sir.

Q. You are the father of Mack Little?

A. Yes, sir.

Q. Taken to Broward County jail in Fort Lauderdale?

A. I was taken down Monday.

Q. You were kept in Pompano jail Sunday night?

A. Yes, sir.

Q. Did you know either of these boys here by sight before you were arrested?

A. No, sir.

Q. The first time you ever saw them was when you got where?

A. After I got in jail in Pompano; me and Charlie were in the same cell, at least in the same cooler, and after we got to Lauderdale I was with him there.

Q. Who all was put in the same place with you in Broward County jail, how many of these boys?

A. All three of them, all of them but Jack, I didn't know him, don't know him yet.

Q. Were they in the same cell with you?

A. All in the bull ring they call it.

Q. By bull ring you mean it was a big open space that had cells?

A. On the side.

Q. Where three or four men slept in a cell?

A. Yes, sir.

Q. Now were all four put in the same bull pen with you?

A. Yes, sir, we all was in the same one together.

Q. That was Monday morning when you got there they were already in the bull pen?

A. Yes, sir.

Q. When did you get there Monday morning?

A. Monday evening.

Q. What time?

A. Got there before night. I don't know exactly.

Q. Now during the time that you were kept in that bull pen did they ever take you out and question you, were you ever taken out of that bull pen?

A. No, sir.

Q. You stayed in the bull pen the whole eight days you stayed in jail?

A. Yes, sir.

Q. Did they take any of these other boys out?

[fol. 163] A. No, sir, not until Saturday morning.

Q. They didn't take any of them out until the following Saturday morning?

A. Yes, sir.

Q. And you saw each one of these boys every day during that period of eight days?

A. Yes, sir, as far as I can come at it.

Q. You swear you saw them there when you came in Monday evening?

A. Yes, sir.

Q. Did you see them Monday night?

A. After we went in them rooms where we sleep, I couldn't see them then.

Q. What time would you say was the last time you saw them Monday night?

A. Well, as near as I can come at it was about eight or nine o'clock, but Charlie, me and him was in there together at night.

Q. Did you see them Tuesday morning?

A. Yes, sir.

Q. All of them?

A. Yes, sir, they was all there for breakfast.

Q. What did you eat for breakfast, you remember what you had for breakfast that morning?

Mr. Salisbury: Object.

The Court: Objection sustained.

Q. You didn't all have breakfast there that next morning?

A. Yes, sir, grits, bacon and coffee.

Q. And all four boys were there that time?

A. Yes, sir.

Q. That's Tuesday morning?

A. Yes, sir.

Q. And you saw them go to bed there Monday?

A. No, I didn't see them go to bed, I see them leave to go to bed.

Mr. Salisbury: Object.

The Court: Objection overruled.

Q. Did you see them Tuesday morning after they had breakfast?

A. Yes, sir, we all was there together.

Q. Did you see them Tuesday afternoon?

A. Yes, sir, I see them practically all day.

Q. I want to know if you did see them every day; did you see them every day?

A. Yes, sir, I think I did.

[fol. 164] Q. And you are sure, you are positive, you are willing to swear you saw them on Monday evening when you were brought in there; you saw them when you got up at Breakfast Tuesday morning?

A. Yes, sir.

Q. What day was it they were taken down to Dade County jail, two of these boys?

A. I don't know.

Q. You know they were taken down there?

A. No, sir, I didn't know that.

Q. You said you didn't see them beat them up in your presence?

A. No, sir.

Q. You know whether they were ever taken out of your presence to any place?

A. No, sir.

Q. They were never taken out of your presence all the time you were in jail?

A. No, sir.

(Witness excused.)

Mr. Catts: I am going to ask that these witness- who go out there be segregated from the other witnesses who have not testified.

The Court: All right, separate those who have testified from those who haven't.

WILLIE HENDERSON, being first duly sworn by the Clerk, testified on behalf of the State as follows:

Direct examination.

By Mr. Salisbury:

Q. What is your name?

A. Willie Henderson.

Q. Do you know those four boys sitting over there, the colored boys?

A. Yes, sir.

Q. Where did you see them before?

A. I see three of them in Blount's farm, and the other one in the blacksmith's shop.

Q. Which three did you see at Blount's farm?

A. Jack, Walter and Izell Chambers.

Q. Where did you work?

A. I worked for Mr. Blount.

[fol. 165] Q. You work with these boys did you?

A. Yes, sir.

Q. How long did you work with them; how long did you know them prior to the time that Mr. Darcey was killed down there at Pompano, about how long?

A. I worked with them about five months.

Q. You remember when Mr. Darcey was killed?

A. Yes, sir.

Q. Were you picked up about that time and placed in the Broward County jail?

A. Yes, sir, that was Sunday night.

Q. Did you see these four boys in that same jail?

A. Yes, sir.

Q. How long were you in jail?

A. I stayed in there thirty two days.

Q. During that time where in relation to these boys?

A. I don't understand.

Q. Where were these boys kept and where were you kept in jail?

A. They were kept in jail.

Q. What cell were they kept in and what cell were you kept in?

A. There was no separate cell.

Q. So you were all able to mix together, were you?

A. Yes, sir.

Q. Did you see these boys while they were there?

A. Yes, sir.

Q. Did you at any time during the time you were there see any one in the jail, any officer or any one in the jail, in your presence, beat or threaten to beat, or promise these boys anything?

A. No, sir.

Q. You had opportunity to see them every day?

A. Well some days they switched some of them around, I didn't see them every day.

Q. Did you see them at night time during the time you were confined there?

A. Yes, sir.

Q. At any time did you see any fresh marks or bruises or blood on any of these four boys?

A. One of them I did, Jack said he got that working on the railroad.

Q. You see what, blood on it?

A. No, sir, scar on his head.

Q. Where did he tell you he got that?

A. Working on the railroad. First time I see him.

[fol. 166] Q. Where?

A. On Blount's farm.

Q. You mean a prior time?

A. I see the scar before he was put in jail.

Q. You are sure those are the same scars?

A. Yes, sir.

Q. Did you see any fresh scars while he was in the jail, see any blood on him?

A. No, sir, I didn't see any blood.

Q. On his hands?

A. No, sir.

Q. Did any of these four boys down there ever tell you anybody had beaten them at any time they were in jail with you?

A. I didn't hear them say.

Cross-examination.

By Mr. Catts:

Q. Your name is what?

A. Willie Henderson.

Q. Were you taken to Broward County jail on Sunday night?

A. Yes, sir.

Q. That you were arrested?

A. Yes, sir.

Q. When you got there that night where were you placed?

A. I was placed in Fort Lauderdale County jail.

Q. What part of the jail?

A. In the ring, where they placed colored folks, what they call the bull ring.

Q. On the first, second, third or fourth floor?

A. I disrem-ber. I know it was upstairs, I didn't count how many floors.

Q. Do you know how many stories there are in the building where the jail is?

A. No, sir, I never did know how high.

Q. Were you taken up on the elevator?

A. Yes, sir.

Q. You know where Mr. Marshall, the jailer's office is?

A. Yes, sir, right in the sheriff's office.

Q. Is it on the same floor where your cell was?

A. No, sir.

Q. How many floors up is that?

A. I don't know.

Q. It is several floors. Did you go up on the elevator?

A. Yes, sir.

Q. You don't know how many floors it is up?

A. No, sir.

Q. You know it is above the floor you were on?

A. Yes, sir.

[fol. 167] Q. Now you say you didn't see these boys all the time, they were taken out and shifted around from time to time?

A. Yes, sir.

Q. They were all four in the bull pen that Sunday night when you got there?

A. Yes, sir.

Q. They take any of them out there Sunday night?

A. I didn't see them.

Q. Well did you see the boys Sunday?

A. Yes, sir.

Q. They were frequently taking them out of there?

A. No, only just shifted them around.

Q. What you call shifting them around?

A. Moving them one place and putting them in another.

Q. One part of the jail and another?

A. Yes, sir.

Q. Did these four boys here stay there in the bull pen with you the whole week, the first week?

A. Yes, sir.

Q. You are sure of that?

A. Yes, sir.

Q. And you saw them every day?

A. Yes, sir, every day for a week.

Q. Did they shift them around that week?

A. Not the first week they didn't shift them around.

Q. You are sure they stayed there in the bull pen?

A. Yes, sir, for that whole week.

Q. You knew the boys before that time?

A. Yes, sir.

Q. You saw them Monday morning after they were taken there Sunday night?

A. Yes, sir, they were right in jail.

Q. You saw them Monday at noon time?

A. Yes, sir.

Q. See them when they ate dinner?

A. Yes, sir.

Q. See them Monday night?

A. Yes, sir.

Q. See them when they ate dinner Monday night?

A. No, sir, didn't eat dinner Monday night, eat dinner about two o'clock.

Q. When was the last time Monday night you see them?

A. The last time I see them they was going to bed.

Q. About what time Monday night was that?

[fol. 168] A. I didn't have no watch, I couldn't tell you what time it was, because I didn't have any watch in jail.

Q. After dark?

A. Yes, sir, after dark.

Q. Did you see them Tuesday morning?

A. Yes, sir.

Q. What time Tuesday morning was the first time you saw them?

A. Why all of them got up out of the bunk, I don't know exactly what time.

Q. Long after daylight, or shortly after the sun was rising?

A. I couldn't see the sun, but it was after daylight; in my estimation the sun was rising because it was shining on the building.

Q. On Tuesday morning, you see them when they ate breakfast that morning?

A. Yes, sir.

Q. When did they have breakfast that morning?

A. Around 8.30.

Q. You say you know these three boys of long standing, Chambers, Woodward and Jack Williamson?

A. Yes, sir.

Q. You swear you saw all three of these boys that morning?

A. Yes, sir.

Q. You are positive, certain of it?

A. Yes, sir, I am sure I see them just like I am looking at you.

Q. And you saw them over there that week the same way?

A. I see them for that whole week during the time they was in jail with me.

Q. And they were right there technically with you the whole week?

A. They didn't lock them up in the cell; in the bull pen.

Q. You didn't miss any of them for any length of time?

A. Not until after the first week.

Q. When did they start shifting them; the next Monday or Tuesday?

A. I don't know exactly when they started; I know they shifted them around.

Q. Did they still have them in the bull pen with you on the following Saturday?

A. They had Charlie Davis.

Q. What day of the week did they take the rest of them [fol. 169] out of there?

A. I don't know. I know they shifted them around.

Q. What was the first day you can remember they first started shifting them around?

A. I don't remember what day it was they started to shift them around.

Q. Getting back to this Monday and Tuesday, are you still positive all these boys were there Monday and Tuesday?

A. Yes, sir.

Q. Was Charlie there Monday and Tuesday?

A. Yes, sir.

Q. Every one of them there?

A. Yes, sir.

Q. And you were looking at them just like you look at me now?

A. Yes, sir.

Q. Don't you know they took two of these boys down to Dade County jail about dark on Monday and kept them until Tuesday around noon time?

A. I didn't know that.

Q. You didn't know that?

A. The only way I can tell, if they did take them out then it must have been their hant or spook or ghost, I don't know.

Redirect examination.**By Mr. Salisbury:**

Q. There were quite a few others in that same cell block with you besides these four?

A. Yes, sir.

Q. About how many of you altogether?

A. I don't know; right smart of them, I didn't count them.

Q. There were a right smart number of you in there altogether?

A. Yes, sir.

(Witness excused.)

[fol. 170] **PRINCE DOUGLAS**, being first duly sworn by the Clerk; testified on behalf of the State as follows:

Direct examination.**By Mr. Salisbury:**

Q. What is your name?

A. Prince Douglas.

Q. Do you recall being in Broward County jail at the time a Mr. Darcey was killed down in Pompano?

A. Yes, sir.

Q. What was your capacity there in the jail?

A. I was head cook.

Q. And you were serving a sentence there, were you?

A. Yes, sir.

Q. You are serving time in Raiford now, aren't you?

A. Yes, sir.

Q. How many times have you been to Raiford?

A. Twice.

Q. Prince, I ask you to look at these four colored boys sitting over there and ask you if you have ever seen them before?

A. Yes, sir.

Q. Where did you see them?

A. In Fort Lauderdale jail.

Q. You say you recall the time Mr. Darcey was killed?

A. Yes, sir.

Q. During the time when you remember seeing these four boys in jail, what were you doing there at the jail?

A. Cooking.

Q. Do you recall any time while you were cooking—first let me ask you, do you know Sheriff Walter Clark, sitting here?

A. Yes, sir.

Q. Did you know Captain Williams?

A. Yes, sir.

Q. You know Bob Clark?

A. Yes, sir.

Q. You know Mr. Virgil Wright?

A. Yes, sir.

Q. You know Mr. Louis Maire?

A. Yes, sir.

Q. In fact you had been there long enough so you knew all these officers, didn't you?

A. Yes, sir.

Q. I will ask you if you remember when Sheriff Clark, Captain Williams and certain other officers there were questioning these four boys?

A. Yes, sir.

Q. This kitchen that you work in, whereabouts is that in relation to a room in the jail that contains a table and radio; [fol. 171] have you ever been in that room?

A. Yes, sir.

Q. Whereabouts is that room from the kitchen you cooked in?

A. I can't tell you exactly in feet.

Q. Whereabouts?

A. It is in the jail.

Q. I understand that, but try to describe to the jury where in relation to the kitchen is the room with the radio and the table?

A. The kitchen is on the second floor and the room is on the third floor, about eight feet up above the kitchen.

By a Juror: That room is right over the kitchen?

Witness: Yes, sir.

Q. You know where Mr. Marshall's quarters are?

A. Yes, sir.

Q. Now where in relation to the kitchen are Mr. Marshall's quarters?

A. You come right from the kitchen on out right in the door and walk into Mr. Marshall's quarters.

Q. Where is the radio and the table?

Q. The radio and the table sets right there.

Q. Are Mr. Marshall's quarters out in another part of the jail?

A. It is in the quarters but it sets over to one side.

Q. In Mr. Marshall's quarters?

A. Yes, sir.

Q. In other words, can you get from the kitchen where you were cooking directly into Mr. Marshall's quarters?

A. Yes, sir.

Q. Is there a door that connects them?

A. Yes, sir.

Q. Do you recall during the time that these boys were in jail, do you recall one night that you were requested by Mr. Marshall to serve him any sandwiches and coffee at night?

A. Yes, sir.

Q. You recall what night that was?

A. Saturday night.

Q. Did you serve him sandwiches and coffee all night that night?

A. Yes, sir.

Q. Who to?

A. The high Sheriff.

Q. By the high Sheriff you mean Mr. Walter Clark?

A. Yes, sir, and the other officials what was there.

Q. Was Captain Williams there?

A. Yes, sir.

Q. Mr. Bob Clark?

A. Mr. Bob Clark.

[fol. 172] Q. During the time while you were serving any sandwiches and coffee, did you see any of these four boys in that room?

A. Yes, sir.

Q. About how often did you go into that room during that night?

A. I was practically there all the time, only when I go downstairs and get some hot coffee and bring it back up there.

Q. By that you mean you were in this room where the radio and table was serving coffee?

A. Yes, sir.

Q. At any time during that night did you see Mr. Bob Clark or Mr. Walter Clark or Captain Williams, or any other officer, or any other man in that room strike or beat, or threaten to strike, or threaten to beat any of those four boys or throw them out of the window?

A. No, sir.

Q. How long were you in there Saturday night?

A. All night long.

Q. During the time you were there did you ever hear any of these four boys make any statement?

A. Yes, sir.

Q. You hear them make any statement whereby they admitted participating in—

Mr. Catts: Object to that. It would not be admissible in this case.—

The Court: Finish your question and I will rule on it.

Mr. Salisbury: —(continuing) participating in the robbery of Mr. Darcey.

Mr. Catts: Object.

The Court: Objection overruled.

Witness: How is that?

(Question repeated.)

A. Yes, sir.

A. At that time when you heard —

Mr. Catts: I am going to interpose an objection to each question as to anything said by these boys.

The Court: The question is not whether they admitted committing a murder, it is whether he heard them make a statement. Objection overruled to the question.

[fol. 173] Q. At that time when you heard any of these boys make any such admission, did you see any officer strike or threaten to strike any of these boys that made those admissions?

A. No, sir.

Q. You know Jack Williamson?

A. Yes, sir.

Q. Which one is he; point him out?

A. The second one from the end.

Q. Did he ever at any time while he was in jail request you to bring him any salve to put on his head?

A. No, sir.

Q. Did you see any marks or bruises or blood on Jack Williamson, or the other three of these defendants?

A. No, sir.

Q. Were you there at the Broward County jail on the Sunday morning that Mr. Maire and Mr. Clark, Captain Williams and others took down some confessions that these boys made, or some statement that these four boys made?

A. Yes, sir.

Q. When in relation to this time, this Saturday night?

Q. It was Saturday, the same Saturday.

Q. Before the Sunday?

A. Yes, sir.

Q. That you have described seeing these boys in the room with the radio and the table?

A. Yes, sir.

Q. And the night you were serving sandwiches and coffee all night long?

A. Yes, sir.

Cross-examination.

By Mr. Catts:

Q. How many people did you serve sandwiches to that night?

A. I don't know exactly the number but it was the whole sheriff's force and Mr. Captain Lee.

Q. Well about how many men would you say were there?

A. Mr. Clark, Mr. Wright, Mr. Louis Maire, Mr. Bob Clark, the high Sheriff's brother, Mr. Marshall and Captain Williams.

Q. That's all you remember now?

A. Yes, sir.

Q. But there were some others there that you don't remember; you think that's all there were there, that's all you served sandwiches to?

A. Yes, sir.

[fol. 174] Q. How many times did you serve?

A. I had sandwiches up there and every time they would ask, one of them would wanted sandwich and cup of coffee, I would give it to them.

Q. You had to prepare these sandwiches and coffee down below?

A. I prepared the sandwiches and brought them up, and made my coffee and went back and got it and bring it up.

Q. That's what I say, you made your coffee and sandwiches on the floor below where they were eating the sandwiches and doing the questioning, didn't you?

A. Yes, sir.

Q. What floor of the jail was that where you made the sandwiches and made the coffee?

A. That is on the second floor.

Q. On what floor was it of the jail where they questioned these boys?

A. That was the third.

Q. Now did you see these officers of the law practically all night that night?

A. Only when I went to get coffee.

Q. You don't mean you made up enough sandwiches all at one time to last all night?

A. Yes, sir, I made them of cold meat.

Q. You made the sandwiches up in the room?

A. Yes, sir, up in the room.

Q. Did you sleep any that night?

A. No, sir.

Q. You stayed up until daylight?

A. Yes, sir.

Q. Did Captain Williams stay up until daylight?

A. They all stayed in there.

Q. They all stayed up all night?

A. Yes, sir.

Q. Did Jack Williamson stay up all night?

A. They bring one of them at a time, backwards and forwards.

Q. Every time you see them that night?

A. Yes, sir.

Q. Brought them in and out all night?

A. Yes, sir.

Q. Just those four?

A. Yes, sir, until they confessed.

Q. They confessed about daylight the next morning, didn't they?

A. Yes, sir.

Q. Who would do the questioning when they brought them in there?

A. The high sheriff and State attorney.

Q. Was the State attorney there all night, too?

[fol. 175] A. He wasn't there when they first started investigating.

Q. What time did he first come over there?

A. About 8 or 8:30.

Q. About 8 or 8:30?

A. As near as I can remember.

Q. Did you give him coffee and sandwiches?

A. Yes, sir.

Q. Do you know how many times he ate sandwiches and coffee?

A. No, sir.

Q. Did you see him have coffee and sandwiches at least one time that night?

A. I remember giving him coffee.

Q. What time of night was it you give him coffee?

A. I don't know.

Q. You think he came over about 8 o'clock?

A. Yes, sir.

Q. And when did he leave, or did he leave?

A. He left the next morning.

Q. After the confessions were made?

A. Yes, sir.

Q. He stay there nearly all night?

A. He stayed in there in that room where they was investigating.

Q. Where they were bringing these boys backwards and forwards all night; they didn't sleep any?

A. I don't know if they sleep or not.

Q. The boys were awake?

A. Every time I see them.

Q. Every time you would go in that room they were awake?

A. Yes, sir.

Q. You didn't see them hit these boys that night?

A. No, sir.

Q. You see them threaten them in any way at all?

A. No, sir.

Q. But they didn't talk to them that night like I am, in the tone of voice I am talking to you, did they?

A. They didn't talk as low as you talk.

Q. Did they talk loud to them?

A. They didn't holler, but they talked to them.

Q. What did they tell them?

A. What did they tell them?

Q. Did anybody curse at them that night?

A. No, sir.

Q. Didn't anybody curse at them?

A. No, sir.

Q. Did you give these boys any sandwiches that night?
[fol. 176] Q. I give one of them a sandwich and cup of coffee; I don't remember which one.

Q. How come you didn't give any to the rest of them?

A. Just one of them wanted a sandwich.

Q. You ever been convicted of crime in Palm Beach County?

A. No, sir, I have been tried here but I wasn't convicted.

Q. As a matter of fact, you turned State's evidence. How many boys were arrested at the same time you were?

Mr. Salisbury: Object.

The Court: Objection sustained.

Q. Did you plead guilty to a charge in Palm Beach County of breaking and entering Mr. Collins house in Kelsey City?

A. I never have plead guilty to breaking and entering a house.

Q. Well, a building of D. J. Collins, and you were turned over by this County to Broward County, when you went to Broward County jail?

A. I was arrested in Broward County.

Q. Then they brought you up here and then turned you back to Broward County?

A. Yes, sir.

Q. Did you enter a plea?

A. Not to Mr. Collins, I didn't know what his name was.

Q. And did you enter a plea of breaking and entering in this County?

A. Yes, sir.

Q. You never have served any time for that. Never been sentenced on that plea yet, have you?

A. No, sir.

Q. You know Spot, one eye trusty, over here in the County jail?

A. No, sir.

Q. You know the one eye boy over there, this trusty when you see him?

A. Boy named Willie?

Q. Yes, he was there when you left this morning?

A. There is a one eye boy over there.

Q. Did you the night before last tell him you were going to get thirty dollars out of this case for coming down here,

and ask him to get you a pack of cigarettes, you would pay him later?

A. No, sir.

[fol. 177] Q. What did you say to him about cigarettes?

A. I told him I have been brought down as witness and ask him to get me some cigarettes, and I get the money and give it to him.

Q. Did you tell him you to get thirty dollars in this case?

A. No, sir, ain't mentioned any money to him at all.

Redirect examination.

By Mr. Salisbury:

Q. You are up at Raiford?

A. Yes, sir.

Q. Serving time?

A. Yes, sir.

Q. You were subpoenaed by the State to come down here?

A. Yes, sir.

Q. You expect to get a witness fee; you expect to get some money for coming down here?

A. No, sir, I don't expect anything.

Q. Any one promised you any money if you would come down here and testify?

A. No, sir.

Q. Now, Prince, this Saturday night before the Sunday when you heard these four boys make the confessions, on that Saturday night did the Sheriff's officers bring other men into that room and question them, besides these four boys?

A. Yes, sir.

Q. In other words, they didn't concentrate on these four boys that night?

A. No, sir.

Recross-examination.

By Mr. Catts:

Q. Didn't I ask you a while ago who they took and brought up here besides these four boys, and you said that was all? Who did they bring up that night?

A. They brought several more men up there.

Q. How long did they keep them in there?

A. He kept bringing them backward and forward, just like these boys.

Q. Did you ever take any salve to this boy, Jack Williamson, without his asking you, just do it of your own accord?

A. No, sir, he never have asked me.

Q. You did it without his asking?

A. No, sir.

Q. You give him a sandwich?

A. Give one of them a sandwich.

[fol. 178] Redirect examination.

By Mr. Salisbury:

Q. You didn't refuse any of these boys sandwiches and coffee, did you?

A. No, sir.

Q. The Sheriff tell you to give everybody in the room something to eat?

A. He told me if anybody wanted it, give it to them.

By Mr. Catts:

Q. What kind of sandwiches did you have?

A. Minced meat sandwiches and cheese and bologna.

(Witness excused.)

—
LONNIE JACKSON, being first duly sworn by the Clerk, testified on behalf of the State as follows:

Direct examination.

By Mr. Salisbury:

Q. Your name is Lonnie Jackson?

A. Yes, sir.

Q. I will ask you if you know these four boys?

A. I know their faces, I don't know their names.

Q. You do know them by their faces?

A. Yes, sir.

Q. Where did you see them last?

A. Broward County jail.

Q. What were you doing there in jail?

A. I was put in jail, I was forty days in jail, I was trusty in jail.

Q. Being a trusty, did they keep you locked up all the time, or did they let you go around any place in the jail you could go?

A. Yes, sir.

Q. You remember the time these boys were there?

A. I remember the time they were in jail.

Q. In making your rounds in the jail did you have an opportunity to see these four boys at any time they were in the jail?

A. I had carried them their lunch.

Q. Carried them all their meals?

A. Yes, sir.

Q. When you carried any of these four boys their meals did you ever see any one of them that had any bruises or [fol. 179] marks or any blood on his body or his clothes?

A. No, sir.

Q. Did any of these four boys ever tell you anybody down there in the jail ever beat them?

A. No, sir.

Q. When you were going around the jail on your duties on Saturday during the time the boys were in jail, did you see Sheriff Clark, Captain Williams, or anybody else, beat any of these boys?

A. No, sir.

Cross-examination.

By Mr. Catts:

Q. You know Captain Williams when you see him?

A. No, I don't know him when I see him.

Q. You don't know him?

A. No, sir.

Q. You didn't see him there?

A. I don't know him.

Q. How many people did you carry lunch to every day in the jail down there at that time?

A. They had to bring to all in jail, I didn't keep count of them.

Q. Well did you carry ten people lunch?

A. I don't remember who I just carried there.

Q. You don't have any idea about how many people you fed down there; you fed these four boys?

A. Yes, sir, I know these four boys.

(Witness excused.)

MACK LITTLE, being first duly sworn by the Clerk, testified on behalf of the State as follows:

Direct examination.

By Mr. Salisbury:

Q. What is your name?

A. Mack Little.

Q. Take a look at these four darkey boys over there.

A. Yes, sir I see them in jail.

Q. You remember the time Mr. Darcey was killed down in Pompano?

A. Yes, sir.

Q. Did you get picked up by the sheriff's officers at that time?

A. Yes, sir.

[fol. 180] Q. Were you taken to Broward County jail?

A. Yes, sir.

Q. Were you in jail there the same time these boys were?

A. Yes, sir.

Q. Do you know any of their names?

A. Yes, sir, I know them.

Q. You know their names?

A. Yes, sir.

Q. What are their names?

A. Jack Williamson, Izell Chambers and Charlie Davis.

Q. Where were you kept, what cell were you kept in?

A. I was kept in No. 7 cell.

Q. Did No. 7 open out in the same bull pen that these boys were in?

A. Yes, sir.

Q. Were you all mingled there together all day until they were locked up in individual cells at night?

A. Yes, sir.

Q. Did you have an opportunity to see these boys off and on during the time you were there?

A. Yes, sir.

Q. During the time you had an opportunity to see these boys did you see any marks or bruises of any kind on their body?

A. No, sir.

Q. You ever see any blood on their body or their clothes?

A. No, sir.

Q. Did you at any time ever hear any official, that is, the Sheriff, Captain Williams, or anybody else ever threaten any of these four boys?

A. No, sir.

Q. Did you ever talk to any of these boys while they were in jail?

A. No, sir, I ain't talked to them.

Cross-examination.

By Mr. Catts:

Q. You say your name is Mack Little?

A. Yes, sir.

Q. When were you arrested?

A. In Pompano.

Q. When, what night?

A. On Sunday night when I was arrested.

Q. About what time?

A. I guess about eight o'clock.

Q. What did they do with you when they arrested you?

A. They didn't do anything, only put me in jail.

[fol. 181] Q. In Pompano jail?

A. Yes, sir, carried me to Pompano jail on Monday morning they took me out and carried me to Lauderdale.

Q. When they took you down to Lauderdale jail, where did they put you?

A. They put me in the bull pen.

Q. That's where No. 7 cell is?

A. Yes, sir.

Q. And did you stay in the bull pen, or in that bunch of cells right there, all the time you stayed in jail?

A. Yes, sir, stayed there in the day, I stayed in the bull pen in the day time and in the night I go to the cell. There is steel between the cells and the bull pen. Night I go in the cell, and day I stay in the bull pen.

Q. How long did you stay in jail?

A. Thirty two days.

Q. Where were these boys when you were put in jail?

A. They was in there.

Q. What part of the jail was it?

A. I don't exactly know, but they was in jail.

Q. But not in the same bull pen you were?

A. Yes, sir, one while they were.

Q. That morning were they in the same cell?

A. Yes, sir.

Q. All four of them in the same cell with you that morning?

A. Yes, sir.

Q. You mean the same bull pen?

A. Yes, sir.

Q. How long did they stay there after that?

A. I don't exactly know, but they stay in there about—I don't exactly know, but about three or four days I guess.

Q. They ever take any of these boys out during any of that time?

A. I didn't see them take them out.

Q. Did they ever take you out?

A. No, sir.

Q. Did they at one time have Izell Chambers and you in the Sheriff's office at one time?

A. No, sir.

Q. Did you see a confession saying you had confessed to this murder?

A. No, sir.

Q. You never saw a confession that said anything like that?

A. No, sir.

Q. You know Captain Williams?

A. No, sir.

[fol. 182] Q. You never see him at the jail and talked to him?

A. If I see him I didn't know him.

Q. Did you know any of these boys before they went in jail?

A. No, sir.

Q. First met them when you got down there?

A. Yes, sir.

Q. And you are sure now they were all in the same cell with you that morning when you were first brought in there; they were in the same bull pen with you?

A. Yes, sir.

Q. And how long did they stay in there; when was the first time you ever remember their taking any of them out?

A. I stayed in there thirty two days and I didn't see any one taken out. He questioned all of us; they took them out to question them.

Q. How long would he keep you out; would he take you out or question you in the cell?

A. Take us out.

Q. These people that were left in the cell couldn't hear what you were saying on the next floor?

A. No, sir.

Q. Take you on the elevator and take you up?

A. Yes, sir.

Q. You don't know whether he went two floors or three floors?

A. No, sir.

Q. When was the first time after you got to Broward County jail you remember their taking any of these boys out and questioning them?

A. I don't remember now.

Q. You don't remember taking any of them out and questioning them?

A. Not exactly the dates.

Q. Did they take them out the first day to question them?

A. No, sir, not the first day.

Q. Take them out the second day?

A. No, sir.

Q. How long would they keep them out when they took them out?

A. About fifteen or twenty minutes.

Q. And would always bring the same fellow right back?

A. Yes, sir.

Q. You didn't bunk in the same cell with any of these boys?

A. No, sir.

Q. How close was their cell to yours?

[fol. 183] A. I was in No. 7; cell and I think Izell was in No. 8, he was below me.

Q. That is, he had a cot underneath your cot?

A. No, sir, I live in No. 7 cell and he live in the 8 cell.

Q. That was the one further away from yours?

A. Yes, sir.

Q. Did they ever keep these boys out as long as an hour on Monday or Tuesday?

A. No, sir.

Q. Not any one of them?

A. No, sir.

Q. Long as two hours?

A. No, sir.

Q. Long as ten hours?

A. No, sir.

Q. You sure about that, that you saw them all day Monday?

A. Yes, sir.

Q. That's the first day you got there?

A. Yes, sir.

Q. You sure you saw them all day Tuesday?

A. Yes, sir.

Q. When did you go to bed Monday night?

A. Go to bed when you get ready.

Q. Go to bed before dark or after dark?

A. Go to bed when the dark come.

Q. When you went to bed Monday night were they still there?

A. Yes, sir, they were there.

Q. And were there the next morning, Tuesday morning?

A. Yes, sir.

Q. And you saw them all day Tuesday?

A. Yes, sir.

Q. Well now did they ever start shifting these boys around and putting these boys in some other part of the jail away from the bull pen?

A. No, sir.

Q. As I remember you stated you stayed in the same cell for thirty two days?

A. Yes, sir, as far as I know.

Q. Now did they stay in the cell there with you for the whole thirty two days, all four of them?

A. Yes, sir.

Q. You know one of these boys as well as you know the other?

A. I know them but I don't know them apart.

Q. Which one of them is which; what is this boy's name?

A. I don't know.

Q. What is this boy's name?

A. Walter, I think.

Q. What is the name of the next one?

A. Jack.

Q. What is the other one's name?

A. Izell.

[fol. 184] Q. Which one of them is Charlie?

A. That last one there.

Q. Did you see these boys the whole thirty two days you were there?

A. Yes, sir.

Q. You are sure?

A. If they took them out I didn't know anything about it.

Q. Well if they kept them out a whole day you would know?

A. Yes, sir, I would know it.

Q. Well don't you know while you were there this boy was taken down to Dade County jail, and was not in Broward County jail?

A. If he was I didn't know anything about it.

Q. That's what I am asking you about; you said you saw them every day. Don't you know they took him down there, took this boy over here down to Dade County jail about Monday noon and didn't bring them back until Tuesday afternoon?

A. If they did, I didn't know anything about it.

Q. Then they weren't all there in the pen all that time you were in jail?

A. They took me and put me on the fourth floor.

Q. How long did they keep you on the fourth floor?

A. I stayed up there about two days I guess.

Q. Were they up on the fourth floor with you?

A. They left them down in the bull pen.

A. And took you up on the fourth floor?

A. Yes, sir.

(Witness excused.)

Thereupon Court adjourned to 1:45 o'clock P. M.

[fol. 185]

Afternoon Session

1:45 o'clock

STIPULATION

Mr. Catts: Counsel for the petitioners and counsel for the State of Florida stipulate that at the time of the alleged confessions on May 21, 1933, about 6 o'clock, that these first two pages of questions and answers were propounded to these defendants as is shown by the questions and answers on these first two pages and the first two lines of page 3 of this certified copy of transcript of the official Court Reporter for Broward County, and that at that hearing the persons named on the first page of this transcript of the official Court Reporter of Broward County, the persons

named at the top of the page, page 1, were present at such time; which transcript of the official Court Reporter was filed in the office of E. R. Bennett, Clerk of the Circuit Court of Broward County, on June 12, 1933, and bears a red pencil notation "39, Palm Beach County No. 1395"; and also the questions contained on the last half of page 29 of such transcript entitled "Questions by Mr. Maire" to the bottom of page 29, were propounded to these petitioners at that time on May 21, 1933, at 6 o'clock A. M.

EDDIE HAMILTON, being first duly sworn by the Clerk, testified on behalf of the State as follows:

Direct examination.

By Mr. Salisbury:

Q. What is your name?

A. Eddie Hamilton.

Q. Do you remember the time that Mr. Darcey was killed down at Pompano, Florida?

A. Yes, sir.

Q. Were you serving time in Broward County jail about that time?

A. Yes, sir.

[fol. 186] Q. What was your capacity there; what were you doing there at the jail?

A. I was working around the jail.

Q. What work were you doing?

A. Cooking and cleaning up.

Q. I will ask you to look at these four colored boys sitting over there; you ever see them down there?

A. Yes, sir.

Q. Were you ever present when Mr. Walter Clark, the Sheriff, Captain Williams and Bob Clark, the Sheriff's brother, and others, were questioning these four boys?

A. I don't understand you.

Q. Were you ever present when any of these I have referred to were questioning these four boys?

A. Yes, sir.

Q. Did you ever see any one of the men that were questioning these boys strike them?

A. No, sir.

Q. Did you ever see any one attempt to strike them or threaten to strike them?

A. No, sir.

Q. Were you what they call a trusty in the jail?

A. Yes, sir.

Q. That also gave you the privilege of running all over the jail?

A. Yes, sir.

Q. Did you have an opportunity to observe these four boys during the time they were confined there in the jail?

A. Yes, sir.

Q. Did you ever see any bruises or cuts on any of these four boys?

A. No, sir.

Q. You ever see any blood on their body or their clothes?

A. No, sir.

Cross-examination.

By Mr. Catts:

Q. How often did you see these boys?

A. Three or four times every day, and more regular than that, about a half a dozen, sometimes a dozen times.

Q. Did you go inside the cell with them?

A. No, sir.

Q. You saw them from the outside?

A. Yes, sir.

Q. How close did you get to them?

A. Close enough to put your hand on them.

Q. Every time you saw them did you get that close to them?

A. Not every time I saw them I didn't get that close to them.

[fol. 187] Q. Were you ever around up in these jail quarters in the night time?

A. Yes, sir.

Q. How often?

A. I stay up in the quarters.

Q. You stay in his quarters?

A. Yes, sir.

Q. Sleep up there?

A. Yes, sir, when I got to be trusty I sleep in there by myself.

Q. Were you sleeping in the jailer's quarters when these boys were brought in the jail?

A. When they was brung there?

Q. Yes.

A. Not when they was brung there.

Q. How long after they were brought there before you got to sleeping in the jailer's quarters?

A. I think about the second day.

Q. Where are the jailer's quarters?

A. Upstairs.

Q. On that floor?

A. On the last floor.

Q. On the top floor?

A. Yes, sir.

Q. How many stories is the court house and jail?

A. There is two stories in the jail part I know, the top and the next one.

Q. And the court room is under that?

A. Yes, sir, just the court room is off from that.

Q. And you stayed up on the top floor?

A. Yes, sir.

Q. Were you on the top floor the Saturday night following the Saturday night after they were put in jail?

A. No, sir.

Q. You weren't up there Saturday night?

A. No, sir.

Q. You know anything that happened to these boys that Saturday night, about their being questioned?

A. Yes, sir, I see them personally.

Q. Where did you see them personally?

A. They was downstairs where I was, that fellow over there.

Q. Where is that, what part of the jail was that?

A. It is in the tank part.

Q. On the third floor?

A. Yes, sir.

Q. They all down there for questioning?

A. Yes, sir, they was down there where I was.

Q. Where were they; In the bull pen?

A. On the questioning?

[fol. 188] Q. Yes.

A. No; they questioned that one over there through the bars.

Q. Were you present in the jail quarters on Saturday night when they were questioning these boys?

A. Not in the jail quarters, not the Saturday night they questioned them.

Q. They brought them there Sunday night, didn't they?

A. Yes, sir.

Q. Were you up there when they questioned them the next Saturday night?

A. The next Saturday?

Q. Were you up there then?

A. No, sir, I wasn't up there that time.

Q. You were on another floor?

A. Yes, sir.

Q. You don't know what happened to them up there that night?

A. No, sir.

Q. Were you ever up there in the jail quarters at any time during the week when they were questioning any of these boys?

A. Yes, sir.

Q. Who was questioning them?

A. Mr. Bob and Mr. Wright.

Q. You know Captain Williams?

A. Yes, sir.

Q. Was he up there?

A. I think he was at the time.

Q. How many times did you see Captain Williams up there?

A. I don't know exactly, it has been so long it slipped my remembrance.

Q. You ever see Captain Williams up there questioning any of them by himself?

A. No, sir.

Q. You never did do that?

A. No, sir.

Q. You don't mean to tell this jury that you were up there every time they carried these boys up there by themselves to question them?

A. No, sir, I didn't say I was up there every time.

Q. Went up there sometimes?

A. Yes, sir.

Q. How late at night was it you ever see them questioning any of them?

A. I don't know.

Q. You ever see them questioning any of them at night?

A. Yes, sir.

Q. Up there where you sleep?

A. Yes, sir.

Q. How late at night would you say?

[fol. 189] A. I don't know, I didn't have any time.

Q. Had you gone to bed?

A. No, sir.

Q. While you were still up?

A. Yes, sir. I went to bed when I got ready up there.

Q. What time did you usually go to bed?

A. All the way from ten to eleven o'clock sometimes.

Q. Did you ever know of their questioning them after you went to bed?

A. No, sir.

Q. You usually go to sleep when you went to bed?

A. Yes, sir.

Q. You don't know what happened after that time, do you?

A. No, sir.

Q. Where were the boys kept from the time they were put in there on Sunday morning?

A. Kept upstairs.

Q. In which room; were these four boys all in the same room at the time you saw them?

A. No, sir.

Q. They were in separate rooms in different portions of the jail?

A. Yes, sir.

Q. Did you ever see all four of them together at any one time?

A. When they was questioning them?

Q. When they were questioning them, or any other time?

A. No, sir, I never.

Q. Never have?

A. No, sir.

Q. During all the time they stayed there in the jail you never saw the four of them together at any one time?

A. No, sir.

Redirect examination.

By Mr. Salisbury:

Q. When you say you sleep in the jailer's quarters, tell just what you mean; you mean you slept in the jailer's quarters, or you slept on the same floor?

A. Slept on the same floor.

Q. Were there some cells up there for trusties to sleep in?

A. Yes, sir.

Q. At the time you saw these four boys being questioned, did you see other boys being questioned, or were those the only ones you ever saw being questioned?

A. The boys that were with them.

[fol. 190] Q. Were there others questioned, too?

A. Yes, sir.

Q. And the officers didn't concentrate on these four boys?

A. No, sir.

Recross-examination.

By Mr. Catts:

Q. You don't know what they did that Saturday night when you weren't up there?

A. No, sir.

Q. You didn't see anything that happened on that floor that night?

A. No, sir.

Q. You didn't sleep on that floor that night where you had been sleeping?

A. No, sir.

(Witness excused.)

B. B. JOHNSON, being first duly sworn by the Clerk, testified on behalf of the State as follows:

Direct examination.

By Mr. Maire:

Q. Did you live in Fort Lauderdale on the 21st day of May, 1933?

A. Yes, sir.

Q. Were you at that time a police officer of any kind?

A. No, sir.

Q. You ever been a police officer?

A. No, sir.

Q. What was your occupation at that time?

A. Telephone work.

Q. At that time that you were present in the office of Mr. Marshall, at 6:30 o'clock in the morning on that date, did you see the four petitioners in this case?

A. Yes, sir.

Q. You see every one of them?

A. Yes, sir.

Q. Did you at that time see any sign upon any visible part of the body of either of them of any fresh scars, or beatings or striking or blood upon their body or clothing?

A. No, sir.

Q. How close were you to them at that time?

A. Just within a few feet of them.

Q. Did you at any time observe to see whether there were any such signs upon the visible part of their body or not?

A. Well I didn't notice.

[fol. 191] Q. Well you saw the defendants, didn't you?

A. Yes, sir.

Q. If there had been any there would you have seen them like any scars on their head or marks on the body?

A. I didn't see any on the head of any, no, sir.

Q. Was there light enough in the room if any of these men had had any cuts or marks or blood on their clothing you would have seen it?

A. How is that?

Q. Was there enough light in the room at that time so you could have seen it if there had been any?

A. Yes, sir.

Q. You know anything about the general attitude or mental condition of these boys at that time?

A. Well, they seemed to be in a normal condition.

Mr. Catts: Object.

The Court: Objection overruled.

Q. Described their appearance, Mr. Johnson.

A. They appeared normal to me.

Cross-examination.

By Mr. Catts:

Q. Did you make any minute examination of any of these boys sitting over there on that occasion?

A. No, sir.

Q. You didn't attempt to make any examination to look for wounds or things of that kind on the body of these boys. Did they have the appearance of having been up all night?

A. Well I couldn't say that.

Q. You know how a sleepy man looks?

A. They didn't look sleepy.

Q. They didn't look sleepy?

A. No, sir.

Q. In fact they were thoroughly rested?

A. Well they looked like they were in normal condition.

Q. Did they look to you at that time the same as they do in this court room, as far as you can tell?

A. Well they are quite a bit fleshier now than they were then.

Q. I mean as to being worn out?

A. Yes, sir, they looked just as well then.

[fol. 192] Q. The lights in this room; they have them on?

A. I couldn't say if the lights were on or not but there was plenty of light in the room.

Q. What time in the morning would you say it was?

A. About 6.30.

Q. Was the sun up?

A. Yes, sir.

Q. You particularly friendly with the jailer or the officers of the sheriff?

A. Well they are friends of mine.

Q. Ever been out with them in the performance of their official duties?

A. No, sir.

Q. The first time you were ever called in your life to be present in the jail on any occasion?

A. Yes, sir.

Q. How far do you live from the jail?

A. I was living then about—well, about five blocks from there.

Q. How close was the closest you came to any of these petitioners that morning?

A. Just within a few feet of them.

Q. You look on the back of any of their heads, or did you make any examination?

A. I didn't examine them, no, sir.

Q. You didn't make any examination?

A. No.

Q. Were you looking for wounds or anything like that on their heads?

A. No.

Q. Could you tell this Court and jury now how they were dressed on that occasion?

A. I don't remember just how they were dressed.

Q. You notice whether either of them were barefooted or not?

A. I didn't notice their feet, no, sir.

Q. You notice whether any of them had on gloves or not?

A. No, sir, I noticed they didn't have gloves on.

Q. You noticed they didn't?

A. No.

Q. Any of them that didn't have on a shirt?

A. Well, the best I remember some of them didn't have shirts on.

Q. Have on hats?

A. No, sir.

Q. Or caps?

A. No, sir.

Q. Were you sitting or standing while they were talking to Mr. Maire and he was questioning them?

A. I was sitting.

[fol. 193] Q. With respect to where you are sitting, in what direction were these defendants to you?

A. They were lined up right in front of me.

Q. Was anybody else sitting on the same side with you?

A. Yes, sir.

Q. How many people?

A. Four or five I believe.

Q. Point out some object in the court room that you would say that was as far away from you as these boys were?

A. I would say this front row of the jury was about.

Q. Where was Mr. Maire with reference to where you were, where was Mr. Maire?

A. Well he was questioning them; I don't remember just what position he was.

Q. You don't remember what part of the room he was in, or did he move about the room?

A. He probably moved around.

Q. Did you move any time he was questioning them?

A. No.

Q. Now with respect to where these boys were sitting in front of you, which one was sitting to your extreme left; or do you know?

A. I couldn't say.

Q. You know which one was sitting to your extreme right?

A. No.

(Witness excused.)

W. F. FORD, being first duly sworn by the Clerk, testified on behalf of the State as follows:

Direct examination.

By Mr. Maire:

Q. Mr. Ford, at the time you were present in the jailer's quarters in the jail at Fort Lauderdale on Sunday, May 21, 1933, at 6:30 o'clock in the morning, and from then on for a little while were you an officer of the law, and have you ever been?

A. No, sir.

Q. What is your occupation?

A. Carpenter.

Q. Did you at that time have occasion to see and observe the four petitioners in this case?

A. Yes, sir.

Q. Had you ever seen them before that time?

A. No, sir.

[fol. 194] Q. Do you remember the condition, as to whether it was light or dark in there at the time?

A. Light.

Q. Did you see any visible signs upon any visible part of the body of any one of these four petitioners that showed any bruises, fresh scar marks or blood upon their body or upon any part of their clothing?

A. No, sir.

Q. Did you see any signs of any marks around the necks of any one of them?

A. No, sir.

Q. You know whether they all had on shirts or not?

A. Just one I think, if I remember.

Q. So there was a part of their body that was exposed to view to you?

A. Yes, sir.

Q. What part of the body could you see?

A. Shoulders, arms, down to their waist.

Q. Did you see any cuts upon the heads of any of them?

A. No, sir.

Q. Any bruises?

A. No, sir.

Q. Any open wounds?

A. No, sir.

Q. What was their general appearance at that time, describe that to the jury?

A. Well the general appearance would be just as you meet a man every day, as far as I know. They was dressed in overalls. One of them I believed had on a yellow shirt, if I remember, Woodward, I believe.

Q. Did anybody during the time you were there threaten them in any way?

A. No, sir.

Q. Make them any promises?

A. No, sir.

Q. How close were you to them at the time you saw them?

A. Oh, closer than I am today, a little.

Q. If there had been any signs or marks of any fresh cuts and bruises such as I have asked you about, did you have the opportunity and could you have seen them at that time?

A. Yes, sir, I think so.

[fol. 195] Cross-examination.

By Mr. Catts:

Q. See any scars on any of their heads?

A. No, sir.

Q. Can you now see any scars on the heads of any of them?

A. I don't see any.

Q. Can you now look at them and see any scars or marks on their heads from where you are sitting.

A. One of them has got a scar on the side of his face.

Q. See any other scars on them?

A. No, sir.

Q. Did you make an examination of these boys or look for any?

A. I didn't examine them.

Q. You think you were quite as far away from them as you are now?

A. No, probably about half that.

Q. About as far away as you are from me?

A. About that.

Q. Did you examine them for scars or fresh cuts, or any thing of that kind?

A. No, sir.

Q. You examine the back of any of their heads?

A. No, sir.

Q. Were you asked by the officers to make an examination of these boys for scars?

A. No, sir.

(Witness excused.)

[fol. 196] W. C. MATHER, being first duly sworn by the Clerk, testified on behalf of the State as follows:

Direct examination.

By Mr. Maire:

Q. Please state your name.

A. W. C. Mather.

Q. Are you practicing law in Broward County?

A. Yes, sir.

Q. Where do you practice law in Broward County?

A. My home is in Hollywood.

Q. How long have you been admistted to the Bar in Florida?

A. About thirteen years.

Q. How long have you been practicing law altogether?

A. Around twenty years.

Q. Were you one of the attorneys that was appointed by Judge Tedder as counsel to represent two of these petitioners now before the court?

A. Yes, sir.

Q. Which two did you represent?

A. The two in the center, Williamson and Woodward, I think.

Q. Do you remember the time that the two you represented, as well as the other two, were arraigned in court in Fort Lauderdale?

A. Yes, sir.

Q. Did you see your clients at any time before they were arraigned in court there?

A. Yes.

Q. How long before they were arraigned?

A. I believe the first time was a couple of days before they were arraigned.

Q. Did you discuss the case with them at the time?

A. Yes.

Q. Did you at the time have knowledge of the fact that there had—any alledged confessions obtained from your clients?

A. I don't know whether I knew the first time I saw them or not. I think I was aware of the fact before the arraignment.

Q. Did you ever at any time ever discuss a purported confession with your clients?

A. The time before the arraignment I think we discussed to some extent the fact that they had confessed.

[fol. 197] Q. What did you ask your clients with reference to the confession, if you remember?

A. It has been quite a while ago.

Q. What did you ask your clients with reference to the confession at that time; ask them how it was obtained?

A. I think, if I remember correctly, I told them that it was not incumbent upon them to plead guilty just by reason of the fact they had confessed. As to the means or method of the procurement of the confession, I don't recall we discussed that.

Q. Did you ever tell Walter Woodward, or either one of your clients, that sentiment was against them?

Mr. Catts: Object. This is his own witness, and it is leading.

The Court: Objection sustained.

Q. Did you ever discuss the question of sentiment with either one of your clients?

A. No.

Q. What did you advise them with respect to entering any kind of a plea?

A. I told the boys this, I remember: that if they were guilty, and of course were tried before a jury and convicted, I didn't believe there would be any recommendation. I said if you are guilty, and plead guilty, the Court will investigate all the facts and circumstances surrounding the crime and he might see some extenuating or mitigating circumstances that would incline him to leniency or inclined to be less harsh than a verdict without a recommendation. I says "if you are not guilty we will try this case from now on," or words to that effect. I says "if you want to try it, we will try it." I went over that with them a number of times and explained it to them because they didn't appear to have understanding as you expect of some people. I was very careful to explain to them the consequence of their plea or the consequence of a trial, and a verdict of guilty without recommendation. I left it up to them to decide.

Q. You did not then definitely advise them to plead any way?

A. No, sir, I didn't advise them to plead any way.

[fol. 198] Q. Did they ever make any statement to you with reference as to how the confession was obtained?

A. Not that I recall. We didn't discuss that feature of it.

Q. Even the first time you talked to them?

A. No, the first time we didn't discuss the confession.

Q. When did you talk to them again, if you did at all?

A. In an ante room off the main court room the second time, and the last time prior to arraignment.

Q. Was this question of a confession mentioned at that time?

A. Yes, sir, that's when I talked to them and advised them.

Q. What did you ask them with reference as to how the confession was obtained?

A. Why, I told them if the confession was not freely and voluntarily made, if there had been coercion, or coerced into making a confession that it was no good, to put it plainly.

Q. Did they make any reply to that?

A. They didn't make any reply to that?

Q. Did they ever tell you anything with respect to that?

A. No, except that they had made a confession.

Q. That's all they ever told you?

A. Yes.

Q. How close were you to these defendants when you were talking to them, or the petitioners in this case, rather?

A. I was right with them, a foot or so away, I imagine, from them.

Q. Did you at that time observe any wounds or marks or bruises or swellings of any kind upon their head or shoulders or hands or any part of their body?

A. No, I didn't look for any.

Q. Well, you were standing right there talking to them, were you?

A. Yes.

Q. If there had been any visible signs upon them would you have seen them?

A. I presume I would have noticed them.

Q. And you state that you didn't see any?

A. I didn't see any.

[fol. 199] Q. Did they make any statement to you with reference to any such bruises or scars or marks?

A. No.

Cross-examination.

By Mr. Catts:

Q. Do you still practice law in Hollywood?

A. Yes.

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Q. Were you during the year 1933 practicing law in Hollywood?

A. Been practicing there continually since '24 or '25.

Q. At the time of this case down there you were in Hollywood?

A. Yes.

Q. How far is that from Fort Lauderdale?

A. About seven miles south of Lauderdale.

Q. Now, Mr. Mather, when were you first advised, and what day of the week and month that you had been appointed by anybody, and who advised you, to represent any of these defendants?

A. I can't give you the date. I don't recall the first time I discussed this, or whether the Judge discussed this with me. He wrote me a letter and told me to come in, and this was about a week or ten days or maybe two weeks prior to the grand jury indicting these boys. I went in and discussed the matter of representation of them with him. I told him I didn't want to do it.

Q. You mean the representation of these two particular boys?

A. I represented two. He didn't designate, he said if they were indicted he wanted me to represent two of the defendants.

Q. Did he ever after that tell you anything further about that, after they were indicted?

A. A day or so, may be two or three days, I can't recall right now, before the arraignment he sent for me and told me that I was to represent Jack Williamson and Walter Woodruff.

Q. That was after they were indicted?

A. It was after they were indicted.

Q. Then two or three days before they were arraigned he sent for you and told you you were to represent who, Williamson and Woodward?

A. I believe it was Jack Williamson.

Q. You know now what these boys names are?

A. Yes.

[fol. 200] Q. What?

A. Woodruff and Williamson.

Q. You know which is which?

A. The bright one is Williamson and the dark one is Woodruff.

Q. Woodruff, you say it is?

A. That's my recollection after three years.

Q. Well did you remember at last term of court what their names were, did you remember down there in this last case in 1935 what these boys names were?

A. I don't know, I guess so.

Q. I believe you say that after the indictment, and two or three days before they were arraigned, the Judge sent for you?

A. Yes, sir.

Q. And did you go and see the Judge; how did the Judge send for you at that time?

A. I believe he phoned me, I don't recall, or he might have sent me a letter.

Q. How long after he phoned you before you went up to see him?

A. My recollection is I went almost immediately.

Q. The same day?

A. Yes, I know I went the same day I got the message, whether it was a phone call or letter, I forgot.

Q. Well on that occasion did you go to the jail to see these boys?

A. They were brought out into an ante room or corridor, I think you call it, to the jail.

Q. Was that the same day they were arraigned?

A. No, that's the first time I went up.

Q. Who brought them out?

A. I don't recall; one of the officers.

Q. One of the officers there in the jail brought them out?

A. Yes.

Q. And how many of them did he bring out?

A. I talked to two. I think they brought all four out.

Q. Which two did you talk to?

A. The ones the Judge appointed me to represent.

Q. Which two did you talk to?

A. The two in the center there.

Q. In the presence of each other at that time?

A. Yes.

{fol. 201} Q. How long did you talk to them at that time?

A. Oh, probably thirty minutes.

Q. Anybody else present while you were talking to them?

A. There were several in the corridor; there was no one around but the two boys and myself.

Q. Several officers of the law, or just several people?

A. If I remember correctly, Mr. Griffis, who represented the other two boys was there at the same time.

Q. About how long after that date on which you saw them that time before they were arraigned?

A. Couple or three days, I don't recall.

Q. That was two or three days later after that time?

A. Yes.

Q. Do you know on what date the indictment was returned?

A. I do not.

Q. Did you ever see the indictment in this case?

A. Yes.

Q. I will ask if you will look at this instrument and tell me on what date it was filed for record in the Clerk's office and what day it was returned in Broward County?

A. Marked filed May 22, 1933.

Q. What date?

A. May 22, 1933.

Q. That is the indictment, is it?

A. Yes.

Mr. Catts: Your Honor, it is stipulated between counsel for petitioners and counsel for the State of Florida, that the two petitioners, Walter Woodward and Jack Williamson were arraigned in open court in the Circuit Court of Broward County May 24, 1933, as shown by the official transcript of record in that court.

Q. You remember that was the day on which they were arraigned, on the 24th of May is the date on which they were arraigned?

A. I presume the court records are correct.

Q. Then you were mistaken when you said there was two or three days before arraignment, but after the indictment, Judge Tedder called you and you went up to see the boys?

[fol. 202] A. I said I talked to them, but my intention was to say a couple to three days, I don't remember the number of days prior to arraignment, but it was after they were indicted that I talked to them.

Q. Now the record in the case shows they were indicted on May 22nd, and they were arraigned on May 24th—no two or three days intervening between that space of time?

A. No, hardly.

Q. Well, as an actual fact when you first talked to them, you didn't talk to them before they were indicted?

A. No.

Q. Then it must have been the day after they were indicted you first talked to them, was it not?

A. Either that or the day they were indicted. I don't recall. It has been three years and I can't remember exact minutes and hours between things that happened.

Q. You represented these boys when they entered a plea of guilty and received a sentence to be executed?

A. Yes.

A. And with that grave situation in mind you don't recollect the details in this case?

A. Not as to those things, not as to the hour and minute I called on them.

Q. You knew these alleged confessions were presumed to have been obtained about six o'clock in the morning, early, right after daylight, did you not?

A. I learned that, I believe, after the plea was entered.

Q. You learned that after the plea was entered and you made no investigation from the officers, or from any other source to find out how these confessions were obtained?

A. I discussed this matter with the boys themselves.

Q. But you made no further independent investigation to determine the time of day or night, or any other time these confessions had been obtained. Did not the fact they were alleged to make the confessions at daylight call for some sort of action, to make some investigation?

Mr. Maire: Object.

The Court: Objection sustained.

[fol. 203] Q. In this particular case here, since you have been a witness today, have you been released from any privileged communication; have you asked the Court to release you from it, and are you freely and voluntarily testifying?

The Court: Restate your question.

Q. Mr. Mather, since you have been a witness in this case today, have you been advised by anybody, this court or either of these petitioners, that you were released from the relationship of attorney and client that existed between you at the time you obtained the information that you have given on the witness stand today?

Mr. Maire: Object to the question on the ground it is not an issue in this case.

The Court: Objection overruled.

Q. Have you been released from that duty you owe your clients, as a lawyer representing a client, to come into court and testify against them?

A. Mr. Catts, I am not testifying against them.

Q. I mean testifying to anything that happened?

A. I am telling the truth as I know it.

Q. Have you been released by this court, or either of these defendants—petitioners—from the duty that you owe to them, to keep within your bosom anything that was communicated to you when the relationship of attorney and client existed between you; have you been released by anybody here today?

A. I have merely answered as best I could.

Q. You realize as an attorney and client, or as an attorney, that your duty to any client that you represent, as a matter of legal ethics, requires you to keep stored in your breast and in your own mind anything that's imparted to you as long as that relationship exists; you are familiar with those ethics, are you not?

A. I understand that.

[fol. 204] Q. And you have asked no one, you have not been released by either of the petitioners or this court from testifying today as to those things that happened when that relationship of attorney and client existed, have you?

A. No, I felt the truth wouldn't hurt either the boys or anybody else.

Q. What?

A. I felt the truth would probably help this matter if I could throw any light on the subject.

Q. In spite of the fact you knew you were obligated to your clients to keep sacred in your breast anything that they imparted to you as client and attorney?

A. I didn't know they imparted anything to me.

Q. But you are familiar with that?

A. Yes.

Redirect examination.

By Mr. Maire:

Q. Have you violated any rule of ethics that you know?

A. I don't think I have.

Mr. Catts: Has anybody released you?

Mr. Maire: He has answered that question.

The Court: Is that the same question, or a different question?

Mr. Catts: Yes, sir, that's the same question. I will withdraw it. He has answered it.

(Witness excused.)

[fol. 205] CHARLES H. GORDON, a witness previously sworn, was recalled, and testified on behalf of the State as follows:

Direct examination.

By Mr. Maire:

Q. Did you occupy any official position in Broward County on May 13, 1933?

A. Yes, sir.

Q. What were you?

A. Deputy Clerk of the Circuit Court.

Q. Were you present in the court room yesterday when Walter Woodward, I believe it was, pointed you out and said you were present at the time a certain confession was taken from them?

A. Yes, sir, I was.

Q. On Sunday morning the 21st day of May, 1933.

A. You mean was I present?

Q. Yes, when the confession was taken?

A. No.

Q. Were you present when that confession was taken?

A. I was not.

Q. When was the first time that you saw Walter Woodward, or any of these petitioners in this case that you know of?

A. I don't think I had ever seen any of these defendants until they were brought in open court for trial.

Q. Were you present when they were arraigned?

A. Yes, I was present.

Q. Mr. Catts has brought out that they were arraigned on May 24, 1933, from the record; is that true?

Mr. Catts: Object.

The Court; Objection overruled.

Q. Did you see these defendants when they were arraigned?

A. I did.

Q. How close were you to them?

A. Between 2 and 5 feet, I suppose.

Q. Did you on that occasion have the opportunity to observe the physical appearance of these defendants?

A. Yes.

[fol. 206] Q. Did you at that time see any signs of any fresh cuts, fresh scars, bruises or bumps or wounds of any nature upon the visible parts of their body?

A. I did not.

Q. Could you have seen such if they were there?

Mr. Catts: Objected to as calling for the conclusion of the witness.

The Court: Objection sustained.

Cross-examination.

By Mr. Catts:

Q. You seem to be a little confused about Walter Woodward having said that he saw you over there at the jail house on Sunday morning. You know anybody down there in Broward County that wears glasses, or a man that looks anything like you?

Mr. Maire: Object.

The Court: Objection sustained.

(Witness excused.)

TOM J. COLLINS, being first duly sworn by the Clerk, testified on behalf of the State as follows:

Direct examination.

By Mr. Maire:

Q. Were you a member of the jury that tried Izell Chambers in Broward County on the charge of murder?

A. Yes, sir.

Q. Did you have an opportunity at that time to observe, not only the defendant Izell Chambers, but the other three petitioners that are now present before this court?

A. Yes, sir.

Q. Did you at that time see any signs upon the visible parts of their bodies of any scars, cuts, bruises or indication of that nature?

A. No, sir.

Q. How close were you to them at the time you saw them?

A. About four feet away.

Q. Did you hear all the testimony in that case?

A. Yes, sir.

Q. Did you hear all of them testify in that case?

A. Yes, sir.

[fol. 207] Q. Do you remember whether or not any of these petitioners testified at all with reference to any force or duress?

A. No, sir.

Q. Do you mean you don't remember whether they testified; did they testify?

A. Yes, sir.

Q. Well do you remember what they testified with reference to force, violence or duress?

A. Yes, sir.

Q. What did they testify?

A. They testified that their confession was free and voluntary.

No Cross-examination.

(Witness excused.)

J. N. CAIN, being first duly sworn by the Clerk, testified on behalf of the State as follows:

Direct examination.

By Mr. Maife:

Q. Mr. Cain, were you a member of the petit jury that tried Izell Chambers, one of the petitioners before the court, on the murder charge?

A. I was.

Q. At that time did Izell Chambers and the three petitioners all testify?

A. They did.

Q. Did you have occasion at that time to observe all of these four petitioners?

A. I did.

Q. At that time did you see any signs of scars, fresh open wounds, bruise marks about the necks or beatings on the visible parts of the body of any of these petitioners?

A. I did not.

Q. How close were you to them?

A. Oh, probably four or five feet.

Q. Did you hear the testimony all the way through?

A. I did.

Q. Of all four of them?

A. I did.

[fol. 208] Q. Do you remember whether or not there was any testimony in this case with respect to any beating or duress or force having been used?

A. I think there was not.

Q. What do you think was said?

A. That there was no force used to make them confess.

Mr. Catts: It is further stipulated between counsel for the petitioners and counsel for the State of Florida that the transcript of record of the minutes of the Circuit Court of Broward County, Florida, show that the petitioner Izell Chambers was tried in such court on the 12th day of June A. D. 1933.

Cross-examination.

By Mr. Catts:

Q. Mr. Cain, do you now recall on what day of the month of that year 1933 on which the trial was had, I mean the year in which the trial was had, that these alleged confessions were taken?

A. You mean the date of the trial?

Q. No, the date of the trial has just been stated to be June 12th; do you recall what day during that year the alleged confessions were supposed to have been taken?

A. No, sir.

Mr. Salisbury: That's stipulated in the record.

Q. It is stipulated in the record also that these alleged confessions were supposed to have been taken on the morning of May 21, about six o'clock, 1933. Do you see at this time on these boys there any scars on any of them?

A. I see some scars on them, yes.

Q. Did you see any scars on them that day of the trial?

A. I see the ones that's on there now.

Q. Which scars do you see now?

A. I see the one on his forehead.

Q. Which boy?

A. This boy sitting on the end.

Q. You see any scars on any of the rest of them?

A. I can't see this fellow very good, the black one there, Jack Williamson.

[fol. 209] Q. What I am getting at, Mr. Cain, is this: did you see any scars on these boys down there that day at all; did you look for any scars, old or new?

A. Well I see the same scars I see on this boy there.

Q. You see any others?

A. I didn't see any fresh scars.

Q. Well did you see any scars of any kind?

A. I see the ones that I see on this boy there now.

Q. Well, besides that one did you see any others?

A. No, sir.

Q. (Addressing petitioner.) Jack, stand up there. Now get as close to him as you were the day on the witness stand. Turn sideways, now stand in front of him. Did you see those scars on him that day?

A. No, sir. Not on this boy, no, sir.

Q. You didn't see the scar down the center of his head that day?

A. No, sir.

Q. I mean this one in front?

A. I didn't see any scar on him in front.

Q. Step up closer. Are you kind of hard of seeing, Mr. Cain?

A. No, sir.

Q. You see it now?

A. I don't see any scars.

Q. You don't see this scar here?

A. I see a little scar right there.

Q. That scar is about two inches long?

A. Yes, sir.

Q. You can see it now?

A. Yes, sir.

Q. You didn't see the scar on that boy that day?

A. Not that day.

(Witness excused.)

[fol. 210] W. H. BLOUNT, being first duly sworn by the Clerk, testified on behalf of the State as follows:

Direct examination.

By Mr. Maire:

Q. Mr. Blount, you know Charlie Davis, one of the petitioners in this case?

A. I have seen him, yes, sir.

Q. Know him when you see him?

A. Yes, sir.

Q. You know Jack Williamson?

A. Yes, sir.

Q. Jack Williamson ever work for you?

A. Yes, sir.

Q. Where do you live?

A. Pompano.

Q. Did you live in Pompano in May, 1933?

A. Yes, sir.

Q. Lived there at the time Mr. Darcey was robbed and killed?

A. Yes, sir.

Q. Did you see Charlie Davis—I will ask you this: do you remember when there was an alleged confession taken from these petitioners?

A. I remember about the time, yes, sir.

Q. Did you see Charlie Davis at any time after that in Pompano?

A. Yes, sir.

Q. You remember when you saw Charlie?

A. Yes, sir.

Q. When?

A. They brought him up there and I happened to see the sheriff and a deputy sheriff, or another man, and I was down town, I says "I want to see what's the matter" and I ran over there, and he went in my little house—

Q. Wait a moment. You remember how long that was after this confession was taken?

A. I think it was the next day. I don't remember the day exactly.

Q. How close were you to Charlie Davis at that time?

A. Part of the time I could touch him.

Q. Did you have an opportunity to observe him closely?

A. Yes, sir.

Q. Did you at that time see signs of any fresh scars, bumps, marks, signs of beating or rope around his neck, or anything like that upon any part of his body?

A. No, sir.

Q. See any scars at all upon him?

A. No.

[fol. 211] Q. How long have you known Jack Williamson?

A. He worked for us several months before this trouble.

Q. You ever observe any signs of marks or scars upon him?

A. Yes, sir.

Q. When?

A. When he was working for us.

Q. Well was that before Mr. Darcey was killed or after?

A. Yes, sir, before he was killed.

~~Cross-examination.~~

By Mr. Catts:

Q. What kind of a scar did you observe on him?

A. He had scars all over him.

Q. What one particular scar that you remember; where was one particular scar on him that you remember?

A. I think he had some on his face, some on his neck and some on his hands.

Q. What part of his head?

A. Right along here.

Q. Which side?

A. I don't remember which side.

Q. You couldn't look at him today and tell what condition the scars were, and the condition they were at the time?

A. He told me he was in an automobile wreck. I asked him about it.

Q. That isn't what I asked you? Could you look at him today and tell whether there are additional scars on him now than when you saw him last time?

A. No, I couldn't do that.

(Witness excused.)

JOHN DARSEY, being first duly sworn by the Clerk, testified on behalf of the State as follows:

By Mr. Maire:

Q. Your name is John Darsey?

A. Yes, sir.

Q. You remember when Robert Darcey was robbed in Pompano?

A. Yes, sir.

Q. What makes you remember that?

Mr. Catts: Object.

The Court: Objection sustained.

[fol. 212] Mr. Catts: At this time I want to object. I have been letting counsel go ahead without objection, but I don't think this occasion down there that they keep referring to in the language of counsel for the State is permissible under the issues that are now raised before the jury, and I want to object and move the Court to instruct the jury not to consider it in any way in this case, the fact that counsel for the State has referred to a happening at a particular date as of the time a Mr. Darcey was robbed or killed, and I move to strike that from consideration by this jury.

The Court: Motion denied.

Q. Do you remember when one of these petitioners, Charlie Davis, was arrested?

A. Yes, sir.

Q. Where was he first placed when he was arrested?

A. Pompano jail.

Q. Where did you first see him that night?

A. That's where I saw him, in the Pompano jail.

Q. You know what time of night it was you saw him?

A. I don't know exactly, between 8 and 9 o'clock I imagine.

Q. Do you know Captain J. T. Williams?

A. I saw him.

Q. Where did you see him?

A. In Pompano.

Q. Where in Pompano?

A. Well he was all about town there.

Q. Well did you see Charlie Davis in Pompano?

A. Yes, sir.

Q. Did you see Captain Williams and Charlie Davis together at any time?

A. Yes, sir.

Q. Where?

A. At the jail.

Q. Who was present when you saw these two men there besides yourself?

A. Mr. Maddox, the Chief of Police.

Q. Were you present all the time Captain Williams was there?

A. Yes, sir.

Q. Did you see Captain Williams do anything to Charlie Davis while he was there?

A. No, sir.

Q. Did he?

A. I didn't see him.

Q. You were there?

A. Yes, sir.

[fol. 213] Q. If he had could you have seen it?

A. Yes, sir.

Q. Did he strike him?

A. No.

Q. Beat him?

A. No.

Q. What did he do, if anything?

A. He just questioned him.

Q. Anything else?

A. That's all.

Cross-examination.

By Mr. Catts:

Q. How long did you stay with Captain Williams that night?

A. I didn't stay with him any, I just went to the jail and he was there.

Q. And how long did you stay there at the jail?

A. Only a few minutes.

Q. Just a few minutes?

A. Yes, sir.

Q. And you left?

A. Yes, sir.

Q. Did you leave Captain Williams at the jail?

A. No, we all left.

Q. You don't know whether he went back to the jail that night or not?

A. No, sir, I don't know.

(Witness excused.)

J. W. COLEMAN, being first duly *duly* sworn by the Clerk, testified on behalf of the State as follows:

Direct examination.

By Mr. Maire:

Q. Mr. Coleman, were you the official Court Reporter for the Circuit Court of Broward County on May 21, 1933?

A. I was.

Q. Are you the J. W. Coleman that it has been stipulated was present at the time some alleged confessions were taken from the petitioners in that case?

A. I am.

Q. Did you have an opportunity to observe the persons of the petitioners, and all of them?

A. Yes, sir.

Q. I will ask you this: do you remember how they were dressed?

A. As I remember, one of them had an undershirt on, of course I can't exactly remember.

[fol. 214] Q. How close were you to these petitioners, Mr. Coleman?

A. I was about as close as to this lady here (court reporter) except there was a table between us, and they were — the other side; I was writing on the table.

Q. Did you at that time observe any bruises or cuts or scars of any nature upon any of these petitioners?

A. I did not.

Q. Did anybody while you were present promise, beat or threaten any of them in any way or manner?

A. No, they did not.

Q. What was the general appearance of these petitioners at that time?

A. Well they looked well, looked hale and hearty with the feed of peas and cornbread they had at the jail.

Mr. Catts: Object. Move to strike it.

The Court: The last part of it stricken.

Mr. Maire: We don't insist on the last part of it.

Cross-examination:

By Mr. Catts:

Q. Did you make any examination to determine whether there were any scars on the boys or not?

A. I sat there at least thirty minutes looking at these negro boys, and there wasn't one word said during that time. They were waiting on some other men to arrive, and I looked very closely at them, and that's why I answer like I do. If I hadn't noticed them I wouldn't have answered the question.

Q. You say there were no scars on the boys?

A. I know there was scars on one of them, but it was one of them that had been in a handcar accident on the railroad, he testified to that himself.

Q. Where did you gain that knowledge?

A. In court.

Q. You didn't gain that knowledge up there that morning?

A. Not that morning.

Q. I am talking about that morning.

A. I didn't see any scars.

Q. You didn't see any scars that morning?

A. No.

Q. See any on any of them?

A. No, I didn't.

Q. You didn't see any on them?

A. No.

[fol. 215] Q. As a matter of fact aren't you more or less nearsighted?

A. That's easy to perceive I presume.

Q. You are nearsighted?

A. Yes, sir, but I can look at this lady and tell whether she is bruised up or has blood on her.

Q. If she had a scar two feet long down the side of her forehead you could see that?

A. Yes, sir.

Q. But you didn't see any such scar on any of these defendants that morning?

A. I didn't see any blood or any recently bruised scars.

Q. I mean any scars of any kind?

A. I didn't see any scars of any kind.

(Witness excused.)

VIRGIL WRIGHT, being first duly sworn by the Clerk, testified on behalf of the State as follows:

Direct examination.

By Mr. Maire:

Q. Did you hold any official position in Broward County on May 13, 1933?

A. Deputy Sheriff.

Q. You know the four petitioners in this case when you see them?

A. Yes, sir.

Q. You know Izell Chambers?

A. Yes, sir.

Q. Did you at any time ever beat Izell Chambers?

A. No sir.

Q. You know Chief Maddox of Pompano and J. T. Williams?

A. Yes, sir.

Q. Did either of these men ever beat him in your presence?

A. No, sir.

Q. You ever see anybody kick him?

A. No, sir.

Q. You know Walter Woodward?

A. Yes, sir.

Q. Did you or anybody in your presence ever hit, bruise or mistreat Walter Woodward?

A. No, sir.

Q. Did you or anybody in your presence ever hit, bruise and mistreat Charlie Davis?

A. No, sir.

[fol. 216] Q. Did you or anybody in your presence ever tie a rope around his neck and threaten to lynch him, or strike him with a rubber hose, or strike him with your fist and kick him?

A. No, sir.

Q. Or point a pistol at him?

A. No, sir.

Q. You know Jack Williamson?

A. Yes, sir.

Q. You ever see Chief Maddox pull a gun or pistol and hit him with a black jack?

A. No, sir.

Q. You ever see A. D. Marshall or Bob Clark do that?

A. No, sir.

Q. Or do it yourself?

A. No.

Q. Have you in any way ever personally mistreated any of these petitioners?

A. No, sir.

Q. Anybody in your presence ever threaten them?

A. They did not.

Q. You ever promise them anything?

A. No, sir.

Q. Any one in your presence ever promise them anything?

Q. Anybody in your presence ever strike, hit, beat or tie a rope around their neck, stick a pistol at them, hit them with a black jack or mistreat them in any way at any time?

A. No, sir.

Q. Were you present on Sunday morning, May 21, 1933, when the confessions were taken from these petitioners?

A. No, sir.

Q. Do you know whether Chief Maddox was present at that time?

A. He was not.

Q. How do you know?

A. He was with me.

Q. Where was he with you?

A. At Pompano and Deerfield; he was with me until three o'clock Sunday morning.

Q. Did you see these petitioners or any of them at any time soon after they were arrested?

A. I see all of them Monday morning after they were arrested Sunday night.

Q. Did you ever see any marks or scars or bruises, fresh scars, upon any part of their body, of the bodies of any one of these four petitioners?

A. No, sir, I see some old scars on one of them.

Q. Which one did you see them on?

A. Jack Williamson.

Q. Was that after he was arrested?

A. Monday morning after he was arrested.

[fol. 217] Q. You know what night he was arrested?

A. Sunday afternoon or Sunday night, I wouldn't be positive which.

Q. And you saw him on the following day, Monday?

A. Yes, sir.

Q. You know whether that Monday was before or after the confessions were taken?

A. Before.

Q. And you saw the marks testified to at that time?

A. Yes, sir.

Q. Have you at any time seen any marks and fresh scars or wounds and abrasions, sores or bumps upon the bodies of any of these petitioners?

A. No, sir.

Q. Other than what you have testified about?

A. No, sir.

Cross-examination.

By Mr. Catts:

Q. Mr. Wright, were you present as arresting officer when any of these petitioners were arrested?

A. No, sir.

Q. You don't know of your own knowledge what time they were arrested?

A. No, sir, I don't.

Q. When was the first time that you saw them?

A. On Monday morning after they were arrested Sunday evening.

Q. About what time Monday morning?

A. Well, between 9.30 and 10 o'clock, probably around 10 o'clock.

Q. Where did you see them?

A. In the jail, in what we call the bull pen.

Q. Were they all in the bull pen at that time?

A. Well I talked to Jack Williamson, and Walter Woodward and Izell Chambers was in there; I didn't talk to them. Williamson had come up to the bars and I asked him how come the scars on him, I said "looks like somebody had hold of you sometime", and he said "no, sir," he got into a motor car wreck in working on a section, "I was in a motor car wreck and I was in the hospital about a month or six weeks."

Q. You said three of them were there in the bull pen at that time?

A. I am pretty sure they was.

Q. Did you talk to the other two at that time?

[fol. 218] A. No, sir, I didn't talk to any of the rest of them.

Q. How many people did the officers have in Broward County jail at that time?

A. They had a lot in connection with this; I don't know, I didn't make any arrests and wasn't with them at any arrest and I wasn't around the court house, only in and out. If I took a prisoner in Mr. Marshall would take them up in the jail and lock them up, and I don't think I was in the jail twice that week—I don't think more than three times that week.

Q. Now at the times you were at the jail, or the three times that week, did you see these boys on any other occasion?

A. No, sir, I didn't have any occasion to see them any other time.

Q. Did you ever during that week at any time, and up to the next Monday morning at six o'clock, ever talk to any of these petitioners?

A. No, sir.

Q. And didn't see them?

A. No, sir.

Q. You didn't even know, as far as your knowledge is concerned, where they were in the jail at that time?

A. No, sir, I did not.

Q. Were you at the jail on Saturday night, May 20th, or Sunday morning, May 21st, at any time?

A. No, sir I was not up there; I was up there Sunday morning after they made the confession.

Q. But you weren't there at any time on Saturday night?

A. No, sir, I was not. Me and Chief Maddox of Pompano was working together.

Q. You didn't at any other time?

A. I didn't see any of them until the next Monday morning.

(Witness excused.)

[fol. 219] W. C. GOODRICH, being first duly sworn by the Clerk, testified on behalf of the State as follows:

Direct examination.

By Mr. Maire:

Q. Did you occupy any official position in Broward County on the 13th of May, 1933?

A. Yes, sir.

Q. What was it?

A. Deputy sheriff.

Q. You know the petitioners in this case when you see them?

A. Yes, sir.

Q. You know anything about the arrest of any of them?

A. Yes, sir.

Q. Did you arrest, or were you present when any of them were arrested?

A. Three of them.

Q. Who?

A. Jack, Walter and Izell.

Q. Where were they arrested?

A. In Pompano, in what they call Blount's quarters.

Q. Who was present when they were arrested?

A. Deputy sheriff Bob Clark, and Chief of Police at that time of Pompano.

Q. You remember his name?

A. Maddox.

Q. Any one else?

A. Helton; he wasn't an officer.

Q. What was done with them after they were arrested?

A. Sent them to jail, carried them to jail.

Q. Did you accompany them to jail?

A. No, sir.

Q. You know Chief Maddox when you see him?

A. Yes, sir.

Q. Did you ever see Chief Maddox beat Izell Chambers, Walter Woodward or Jack Williamson?

A. No, sir.

Q. Did you ever yourself, or any one in your presence beat or strike or point a pistol at, beat with a rubber hose or beat with a stick any one of them?

A. No.

Q. Did you ever see J. T. Williams threaten them or mistreat them in any way?

A. No, sir.

[fol. 220] Q. You ever see these petitioners or any of them after they were brought to Broward County court house?

A. You mean after they were put in jail?

Q. Yes.

A. Yes, sir.

Q. When was the next time you saw them?

A. After they were arrested you mean?

Q. Yes.

A. I saw them the next day.

Q. You see them through that week?

A. All through the week, yes sir.

Q. Were you one of the men that was present when the confession was taken Sunday morning, May 21st?

A. Yes, sir.

Q. Were you in the jail house Saturday night and Sunday morning that the confessions were taken?

A. Practically all the time; I made one or two little trips and right back.

Q. Were there any other colored people in the jail at that time?

A. Yes, sir.

Q. You know whether or not anybody was questioned that night besides these four petitioners?

A. Not to my knowledge, I don't recall it.

Q. You know whether there were or weren't?

A. I don't recall any one else being questioned.

Q. Were you there the whole night?

A. Practically.

Q. How late were you there, Mr. Goodrich?

A. I was around the jail house until about midnight, and then I went home, and the Sheriff called me up between around 1.30, and I got up and came back to the court house and made two runs out, and right back, probably gone twenty or thirty minutes each time, and the rest of the time I was in the jail.

Q. At this time you were present was Walter Woodward continually beaten, kicked and bruised?

A. He was not.

Q. On that night was he taken by Captain Williams and placed in a chair in a room where some eight or nine men with pistols, black jacks and rubber hose, and was he beaten by these men at this time?

A. No, sir.

Q. Did you see Captain Williams strike Walter Woodward on the jaw and bring blood from it?

A. No, sir.

Mr. Catts: Object to his asking leading questions.

The Court: Objection overruled.

[fol. 221] Q. Did you see Captain Williams, or anybody else, give Walter Woodward at that time a kick in his shin and hit him over the shoulders and arms with a rubber hose until 10:30 o'clock that night?

A. No, sir.

Q. You ever see anybody tie a grass rope around Walter Woodward's neck and hear anybody say they would kill him if he didn't come clean?

A. No, sir.

Q. Did anybody in your presence tell him they would take him up to the west Dixie and have a necktie party and riddle his body with bullets?

A. No, sir.

Q. Were you present at six o'clock in the morning when he was taken out of his cell and taken to the sheriff's office and a noose placed about his neck and he was kicked and beaten again?

A. No, sir.

Q. Was blood running in profusion over his clothing?

A. No, sir.

Q. Were there any signs upon his head and shoulders or on any visible parts of his body?

A. There was not.

Q. Were there any signs of beating, scars or bruises or swellings or cuts that you could see?

A. No.

Q. Were you present on the night of May 20th when Charlie Davis was questioned?

A. May 20th, the same night?

Q. Saturday night, the same night?

A. Yes, sir.

Q. Was he taken out of his cell and placed in a chair in the sheriff's office, and then knocked out of the chair against the brick wall of the room, knocked almost senseless?

A. He wasn't. No brick wall in the sheriff's office.

Q. Was he struck at?

A. No, sir.

Q. Hit and kicked to a wall?

A. No, sir.

Q. Did you or anybody in your presence, beat him about the head, arms and shoulders with a rubber hose, or did you, or anybody in your presence, pull a gun, point it toward him and have your finger on the trigger and say he would kill him if he didn't confess the crime?

A. No, sir.

Q. Did you see Jack Williamson on the night of May 20, 1932?

A. Yes, sir.

[fol. 222] Q. Do you know whether or not during the entire week prior to May 20th, Jack Williamson was walked back and forth from his cell to the sheriff's office and sometimes all night; you know whether that is true or not?

A. It is not.

Q. On the Saturday night of May 20th, was Jack Williamson placed in a chair in the sheriff's office and hit twice over the head with a pistol by Chief Maddox?

A. No, sir.

Q. You know whether Chief Maddox was there that night?

A. He was not.

Q. Was Virgil Wright?

A. He was a very short time.

Q. What part of the night?

A. The early part of the night.

Q. Was Charles Gordon there?

A. No, sir.

Q. At any time?

A. Not to my knowledge.

Q. Did you or anybody at all that night hit Jack Williamson with a pistol, and did blood run profusely all over his eyes and face?

A. No, sir.

Q. Were there any signs of that on him when the confessions were taken the following morning?

A. No, sir.

Q. Were you present when they put a rope around his neck?

A. No, sir.

Q. Was that done at any time you were present?

A. No, sir.

Q. And the rope thrown over some piping arrangement in the cell?

A. Thrown over piping in the cell?

Q. Yes.

A. There is no piping in the cell that I know of.

Q. Then did that happen?

A. No, sir.

Q. Did Chief Maddox place a pistol against his neck and strike him with it, when he was seated in the sheriff's office?

A. No, sir.

Q. On the night of the 20th, or either the 21st day of May, was Jack Williamson kicked by you or anybody in your presence, when asked to identify Charlie Davis, and told if he didn't he would be beaten and punished more than he had already been beaten?

A. No, sir.

Q. Do you know anything about Izell Chambers, from May 13th until the 21st day of May, 1933; did they walk [fol. 223] him back and forth from one part of the jail to the other all night long?

A. No, sir, he was not.

Q. Were you present on the night of the 20th of May when he was questioned?

A. Yes, sir.

Q. Was he brought from his cell to the office of the sheriff, seated in a chair in the presence of you and some eight or nine men, and did Captain J. T. Williams grab him by the throat, using a violent oath, and strike him a number of times in the face causing blood to run from his eyes and nose?

A. No.

Q. Did you see any blood on his eyes and nose at the time of making the confession?

A. No, sir.

Q. Did Captain Williams, or you, or anybody in your presence at that time say they would kill Izell Chambers unless he implicated the other three, and also admitted his own guilt?

A. No.

Q. How were they questioned when you saw any of them?

A. Each one was questioned.

Q. Any force used?

A. No, sir.

Q. Any promise made?

A. No, sir, nothing whatsoever, any more than they would question each one of the boys, any more than you are questioning me.

Q. Were any of them kept all night long?

Q. No, sir, there was none of them ever kept up all night long.

Q. You know whether or not they had opportunity to sleep that night?

A. They did have opportunity to sleep.

Q. Have you any way of ascertaining or telling just how much time they had to sleep that night?

A. Well I would judge that they had, each one of them, would have fully half a night's sleep, or longer, if they slept at the time they were in their cells, and wanted to.

Q. How long at a time, if you know, were they questioned?

A. I would judge fifteen or twenty minutes, may be a little longer.

Q. After they were questioned fifteen or twenty minutes, [fol. 224] what were they allowed to do, if anything?

A. Go back to their cell.

✱ Cross-examination.

By Mr. Catts:

Q. Mr. Goodrich, you say you were one of the arresting officers of three of these defendants, or petitioners?

A. Yes, sir.

Q. At whose place did you arrest them up in Mr. Blount's quarters?

A. I don't know, I think they called it Jack Williamson's place, I am not positive. He seemed to be the owner of it; one reason I would say that, he was there, and there was only one bed or cot in the room, and he was sleeping on that, and the other two were on the floor.

Q. Now when you went there to that house that night about what time was it?

A. It was I should judge around eight o'clock, I don't know for sure. It was after dark.

Q. They were all asleep when you went in there?

A. They pretended to be asleep; I think they were awake from the way they woke up when we went in.

Q. How did you get in the house?

A. I went to the front door and the other two officers went to the side and back, and I just walked in.

Q. The door was open?

A. The door was open.

Q. What was the first thing you did after you got inside the house that night?

A. They seemed to be asleep and I tapped Jack Williamson on the feet with my billy, and the three raised up at the same time.

Q. What do you call "tapping"?

A. Well I would call it—I don't know unless it would be just a little shock of some kind to wake him up, if he had been asleep.

Q. You didn't hit him very hard?

A. No, sir.

Q. You tapped him with your billy at the time?

A. Yes, sir.

Q. They were taken to Broward County jail from there?

A. Yes, sir.

Q. When was the next time you saw them?

A. The next time I saw them was the next morning.

Q. You didn't take them there yourself to Broward County jail?

A. No, sir.

[fol. 225] Q. Did you see Captain Williams that same night, the same night you arrested these boys?

A. Yes, sir.

Q. Who is Captain Williams.

A. I don't know how to explain who he is, I really couldn't answer that question.

Q. Well, was that the first time you ever see Captain Williams in your life, the night you arrested these boys?

A. No, I had seen him before.

Q. When?

A. The night before.

Q. Saturday night?

A. Yes, sir.

Q. Where did you see him Saturday night?

A. I saw him in Pompano.

Q. What kind of a looking man is he?

A. A large man; healthy looking fellow; is that what you mean?

Q. Yes. Large as Mr. Wright?

A. I don't think he is as large as Mr. Wright.

Q. As large as you are?

A. Yes, sir.

Q. Larger?

A. I imagine some larger.

Q. Where did you see Captain Williams that night you arrested these boys?

A. Well I don't know whether it was in Lauderdale or Pompano.

Q. Did you go back down to Fort Lauderdale on Sunday night?

A. I went back later on.

Q. Now getting back down to Monday; did you see any of these boys on Monday?

A. Yes, sir.

Q. Whereabouts?

A. In jail.

Q. Whereabouts in the jail?

A. In a cell.

Q. You know what they call the bull pen; do you have more than one bull pen down there, just one?

A. Have a bull pen on each floor.

Q. Which one of those bull pens were these boys in at that time, or were they all in the same one?

A. I think they were all in the same cell block.

Q. Which one, what floor of the jail was it?

A. Third floor.

Q. And where is the other bull pen?

A. Fourth floor.

Q. On which one of these floors is the jailer's quarters?

A. Fourth.

Q. Is that the one that had the bed and radio set in it on the fourth floor?

A. Yes, sir.

[fol. 226] Q. And this was the first time you saw them on Monday, was on the third floor in the bull pen?

A. I am not positive. I wasn't the jailer, I wasn't the warden of the jail; I had access of course, if I had any business up there with any prisoners.

Q. Did you have on that day business with these prisoners?

A. I was up there that day.

Q. Talk to them?

A. I don't recall whether I talked to them or not.

Q. You recall talking to any of them?

A. I don't recall whether I had anything to say to them or not.

Q. Did you during the week talk to any of the four?

A. Several times I did.

Q. And what did you talk to them about, and which ones, the first time that week, when did you talk to any one of them?

A. In the jail.

Q. What part of the jail?

A. I don't recall.

Q. How many times that week do you say you talked to any one of them?

A. I don't recall how many times. I was backwards and forwards, and they were there with other prisoners.

Q. Did you talk to them about this case down there; did you ever talk to these petitioners that you remember, did you ever have occasion to talk to them during that week, from the time they were arrested on Sunday night until the following Monday morning?

A. Yes, sir, I was with them some when they were questioned.

Q. Where was this questioning going on, what part of the jail?

A. Well I remember distinctly questioning them once on the third floor of the jail, which ones I don't remember.

Q. You mean that's in the bull pen; you didn't take them out of the bull pen; you said the third floor of the jail, what part of the jail?

A. Where the cells are.

Q. You don't know which one of them you questioned?

A. I do not, I don't recall.

Q. Who was with you when you questioned them at that time?

A. I don't recall that.

Q. Were you in and out of the jail every day during that week.

A. Yes, sir.

[fol. 227] Q. Did you at any time question any one of these prisoners, or these petitioners, or were you present on any occasion during that week, from Sunday to Sunday, when they were being questioned by any officer of the law, or any person not an officer of the law, when they were outside of the bull pen?

A. Yes, sir, I was in their presence some when they were being questioned.

Q. Where was this place they were being questioned outside this bull pen, whereabouts was that in this jail.

A. Outside of the bull pen, or regular cells, I don't recall whether we was in the warden's office or not. I do remember we had quite a few in there we were questioning all along, and I don't recall just which ones.

Q. You say now you recall being present when some of these boys were questioned where were you?

A. In the cell, in the cell box.

Q. Any time they were out of the cell box?

A. I don't recall questioning them any outside the cell box.

Q. Were you present when any one else questioned them?

A. Yes, sir. I don't recall whether it was in the warden's office.

Q. As a matter of fact, during that week, is it not a fact that the officers of Broward County were in that jail almost continually during the whole of the week questioning these boys, and other boys, in connection with this?

A. Yes, sir, off and on.

Q. Practically the whole week. You wouldn't attempt to tell this jury how many times you were present when these boys were being questioned?

A. That's what I said, we had quite a few in jail.

Q. How many would you say you arrested down there in connection with it?

A. I don't recall how many there was.

Q. But all during the week you were continually questioning somebody in connection with this case?

A. Well I wasn't all the time.

Q. I didn't mean you, but somebody else in your presence or the office force down there?

A. I wouldn't say that, not all the time.

Q. How often during that week were these boys out being questioned by the other people?

A. I couldn't answer that, because I had other duties, and my duties was all over the building, I was in and out on other duties of the sheriff's office, and I couldn't undertake to answer that question.

[fol. 228] Q. All I ask is the times you know of?

A. Well I can't answer that question intelligently because—

Q. Do you know these boys were questioned more than one time by the officers of the law and by yourself, and in your presence?

A. More than one time?

Q. Yes.

A. I suppose they were.

Q. Will you swear they weren't?

A. No, sir.

Q. Would you swear they were not questioned as many as twenty times that week?

A. No, sir, I wouldn't make a statement to that effect.

Q. You just won't make a statement of your own knowledge how many times you can recall?

A. I wouldn't make any statement about anything like that, I am not positive of it. I don't know whether two times or twenty times.

Q. Now on the Saturday night, I believe you said you were present all that night, except from the time the Sheriff let you go home about 12 o'clock, and called you about 1.30?

A. Yes, sir.

Q. You made two about thirty minute errands away from the jail?

A. Yes, sir.

Q. And you were present at the jail the rest of the time during that night?

A. Yes.

Q. I believe Mr. Maire asked you the question if there were the only boys that were questioned up there that time in the jailers quarters, and you said the only ones to your knowledge?

A. That's correct.

Q. What time did you go to the jail first that Saturday night before the Sunday morning?

A. Well I was around the jail all Saturday and the early part of Saturday evening.

Q. When was the first time during Saturday they started questioning any of these boys, and which was the first one they started to question?

A. I don't recall when they first started.

Q. Did you see them question anybody before dark?

A. I don't recall.

Q. Did you see them question anybody after dark?

A. I don't recall whether I saw them after dark.

[fol. 229] Q. You see them question any of these boys Saturday night at all?

A. Yes, sir.

Q. When did you see them?

A. Well I was called for that purpose by the Sheriff, when I came in they were questioning them.

Q. What time of night was that?

A. I stated it was about 1.30.

Q. That was the first time that night you had seen them questioning any one of them?

A. I said I didn't recall before that.

Q. Didn't you tell Mr. Maire that all night they would bring them out and keep them out for ten or fifteen minutes, and let them go back and stay for two hours?

A. Yes, sir.

Q. These are the same four boys you are talking about?

A. Yes, sir.

Q. Then you recall you did see them go out and come back in the early part of the night?

A. I don't recall who they questioned and when they were questioned, but they were called after midnight.

Q. Do you recall, Mr. Goodrich that before midnight that they were brought out from time to time; were they brought out from their cells and brought into these quarters up there; did you see them when they were brought out there?

A. I saw them questioning, where they were questioning I don't recall.

Q. You saw them questioning?

A. I saw them when they were bringing them back and forward.

Q. What time of night did they begin?

A. Off and on through the night.

Q. Didn't they start shortly after dark, or before dark?

A. I don't remember when it was; it was before midnight.

Q. It didn't start before midnight?

A. Yes, sir.

Q. What part of the night was it you told the jury they had an opportunity to sleep?

A. In the early part of the night and then after they questioned them they let them go back and stay a couple of hours or more.

[fol. 230] Q. From the time you were called back over there at 1.30 to daylight, didn't they continually have somebody in that room down there questioning them?

A. Yes, sir.

Q. None of them while they were present down there had an opportunity to sleep?

A. They had an opportunity to go back to their cell.

Q. Now from about 1.30 in the morning when you were called back there until 6.30, they continued to have one of these four boys in the room?

A. I wasn't there all the time.

Q. Well, during the time you were there?

A. Yes, sir.

Q. Well, from that time on they had one of these boys continually there in that room and asking questions?

A. As I remember.

Q. Who was doing the questioning during the time you were there?

A. I don't recall.

Q. Well, who was there?

A. I don't recall.

Q. Was Sheriff Clark there?

A. Yes, sir. He was in and out, I don't recall whether he was there all the time or not.

Q. You know Captain Williams?

A. Yes, sir.

Q. Was he there?

A. He was there some, to my knowledge.

Q. He was around the jail all the time you were around there that night?

A. I remember he was there.

Q. Did you ever see Captain Williams in that room where they questioned these four boys that night?

A. Yes, sir.

Q. And who was doing the questioning at the time that you saw them being questioned?

A. I don't recall. I know the Sheriff was there. I don't know whether he was there all night.

Q. I mean any one time?

A. I remember the Sheriff and Captain Williams questioned them, and I remember the Sheriff.

Q. Captain Williams was questioning them and the Sheriff was questioning them?

A. I remember both of them being there.

Q. Of course you saw the jailer there that night?

A. Yes, sir.

Q. Mr. Marshall?

A. Yes, sir.

Q. Was he the gentleman that would go back and forth and bring these boys back and forth?

A. Yes, sir.

[fol. 231] Q. Did you see Mr. Helton there that night?

A. I don't recall. I see him the latter part, after I went back the second time I saw him.

Q. Did you ever see him up in the room when this questioning was going on?

A. Yes, sir.

Q. And did you see up there that night Mr. Bob Clark?

A. No, sir.

Q. Did you see Mr. Bob Clark around the jail at all that night?

A. I see him around the court house, I don't know as I saw him around the jail any part of the night.

Q. You never saw him up in the room where the questioning was going on?

A. No, sir.

Q. You saw Captain Williams in there some time while you were there, and you saw Bob Clark around the court room, which is on the same floor?

A. I said around the court house; I refer to the Sheriff's office as being in the court house; that's down below.

Q. Well did you see Mr. Helton around there?

A. Yes, sir.

Q. While the questioning was going on?

A. Yes, sir.

Q. Hear him do any questioning?

A. I don't recall him questioning.

Q. But he was present when other people were questioning?

A. Yes, sir.

Q. How long when they would send one of these boys back before they would bring out another?

A. Why I don't know, I wouldn't time them. I would imagine give them time to get up and dress and come out wherever they wanted to take them.

Q. Just about the time it would take them to get up and dress. Did they tell him when they sent out one of them which one to bring back?

A. I don't know. I suppose the Sheriff would tell Mr. Marshall which one to bring out.

Q. Did you hear the Sheriff tell Mr. Marshall which one to bring out?

A. Did I.

Q. Did you hear Mr. Williams tell Mr. Marshall which one [fol. 232] to bring out?

A. I suppose naturally he would take his orders from the Sheriff, which one to bring out.

Q. That takes care of the situation from the time you came back at 1.30, and that's practically all the people you know were there in that room when the questioning was going on?

A. Yes, sir.

Q. I believe you said you saw them take them back and forth before twelve?

A. Yes, sir.

Q. And what was the earliest that night you can now recall you saw them take anybody back and forth?

A. I don't recall.

Q. I thought you said it was before you went home?

A. I don't recall what time of night it was.

Q. As a matter of fact it was going on all night, taking them back and forth all night long.

A. I would rather not say only the time I was actually there. I was in and out of the jail before midnight.

Q. You were at the jail some before midnight, were you?

A. I was there from 1.30 or 2, off and on, until daylight.

Q. Now did you see them taking them back and forth, not that you heard what they said or where they went, but did you see them taking these back and forth as much before midnight as they did after midnight?

A. No, I wasn't up there.

Q. You weren't up there where you could see it in the early part of the night; is that right?

A. Well I just remember being in and out of the jail up until midnight, but from then on, from 1.30 or 2 o'clock—

Q. Around the court house all the time, but not in the jail?

A. Yes, sir.

Q. The jail and court are in one big building, aren't they?

A. Yes, sir.

Q. You were around the vicinity of the jail and court house all during the fore part of the evening?

A. I wasn't around the Sheriff's office all the time; I was in and out.

Q. But during some part of the evening you did see them taking them back and forth?

A. I said I didn't recall their taking them back and forth [fol. 233] the first part of the evening.

Q. You said you didn't recall their taking them back and forth before midnight; you didn't know what time it was?

A. I said I didn't know how near midnight it was.

Q. You did before midnight see them take these boys, or some of these boys back and forth to some place in the jail house?

A. Yes, sir.

Q. Did you see the cook up there that night?

A. Yes, sir.

Q. What was he doing around there?

A. I don't know what he was doing.

Q. Jail cook; was he serving sandwiches and coffee?

A. I don't know.

Q. You see any coffee or sandwiches?

A. No.

Q. He didn't serve you any?

A. No.

Q. You stayed there, except the two thirty minute periods after you come back there, until around 6.30 in the morning; you were there all during that time?

A. Yes, sir.

Q. You went away for thirty minutes on two occasions?

A. Yes, sir.

Q. Are you sure they didn't keep any of these boys up there for a period of time longer than fifteen or twenty minutes?

A. I judge about that time.

Q. Keep them all up there approximately the same time?

A. I didn't time them, I don't know.

Q. You just know they were bringing one or the other of them back and forth about that time while you were there, from 1.30 until about six o'clock; is that right?

A. Yes, sir.

Q. You know anything about their taking two of these boys to Miami, to Dade County jail, at any time during that week?

A. I know one of them was in Dade County, I don't recall whether two of them.

Q. Which one of them do you recall was?

A. Izell, I think.

Q. Izell Chambers?

A. Yes, sir.

Q. You know who took him down?

A. I don't recall who took him down.

[fol. 234] Q. You didn't take him down?

A. No, sir.

Q. When was the last time you saw Captain Williams?

A. I think that same summer was the last time I have seen him, I am not positive.

Q. Did you say you did see him around the jail house several times during that week?

A. Yes, sir.

Redirect examination.

By Mr. Maire:

Q. Mr. Goodrich, you are not telling the jury or swearing that the cook didn't serve coffee and sandwiches that night?

A. No, sir. I said he didn't serve me any. He was around all through the night.

Recross-examination.

By Mr. Catts:

Q. Do you mean to say, Mr. Goodrich, that the cook was not up there, or just you didn't see him?

A. I said he was around there but he didn't serve me any sandwiches.

Q. Did you see anybody else served sandwiches, or anybody else eating sandwiches?

A. I don't recall seeing any sandwiches.

Q. Do you now remember seeing anybody else up there that night connected with the jail, or any officer or any person working with the officers up there, other than the ones you have named?

A. You mean during the early part of the night?

Q. Yes, the early or late part of the night, any time before 6.30 the next morning?

A. I don't know what time it was I don't recall what time it was that I saw some others there.

Q. Did you see Mr. Maire there any time during the night?

A. I didn't see him until I saw him the next morning.

(Witness excused.)

[fol. 235] R. C. HELTON, being first duly sworn by the Clerk, testified on behalf of the State as follows:

Direct examination.

By Mr. Salisbury:

Q. On May 13th, 1933, did you hold any official position in the County of Broward or City of Pompano?

A. Yes, sir, I was constable.

Q. Do you know who Charlie Davis is?

A. Yes, sir.

Q. Do you recall when Charlie Davis was arrested down there at Pompano?

A. Yes, sir.

Q. You recall what date that way?

A. I don't know the date; it was on a Saturday night.

Q. You recall when in relation to the time Mr. Darcey was robbed?

A. Yes, sir, the same night.

Q. Do you know Captain J. T. Williams?

A. Yes, sir.

Q. Were you present in the Pompano jail when Captain Williams questioned Davis?

A. Yes, sir.

Q. Were you present with Captain Williams the whole time?

A. Not all the time; part of the time.

Q. Did you leave at the same time Captain Williams left, or did you leave before?

A. I left when he left.

Q. At any time while you were there did you see Captain Williams strike Charlie Davis with any object, or with his fist, pistol or black jack or anything?

A. No, sir.

Q. Did you see any blood on Charlie Davis' clothes or body that night in the Pompano jail?

A. No, sir.

Q. You know the other defendants by sight sitting there?

A. Yes, sir.

Q. When did you next see Charlie Davis, and when did you see the other defendants and where?

A. I saw Charlie Davis the next day.

Q. And where?

A. I think I saw him down in Pompano jail before they moved him from there; then I saw him in Lauderdale.

Q. In the Broward County jail at Lauderdale?

A. Yes, sir.

[fol. 236] Q. You see the other three defendants at the same time?

A. I don't think when I first saw the others that Charlie Davis was with them.

Q. Where were they kept in the Broward County jail?

A. Some on the third floor and some on the fourth floor. There is two separate floors there, I don't know whether they call them third or fourth or not.

Q. Were you around Broward County jail the whole week following the arrest of the four defendants?

A. Not the whole week; off and on.

Q. Were you there off and on for the whole week?

A. Yes sir.

Q. At any time did you, or did any one in your presence ever strike any of the defendants with their fist or with any object, a pistol or black jack?

A. No, sir.

Q. Any one tie a rope around any of the defendants' necks and threaten to string them up if they didn't confess?

A. No, sir.

Q. Were you at the jail Saturday night, May 20, and Sunday morning May 21st?

A. Yes, sir.

Q. You recall when the four defendants were questioned?

A. Yes, sir.

Q. Where did the questioning take place?

A. On the fourth floor of the jail.

Q. Were they the only ones questioned that night?

A. No, sir.

Q. About how many would you say were questioned that night?

A. I would say ten to twelve.

Q. In other words, in addition to these four boys there were six or eight—

A. Other than these boys.

Q. Other than these four?

A. Yes, sir.

Q. Saturday night, May 20 and Sunday morning, May 21, how long were you there at the jail?

A. I left the jail about six o'clock in the afternoon and was away about two hours, I think, and then I was there until about probably 1.30, and was away probably 50 minutes

or an hour; and then I made another trip to Pompano [fol. 237] that same night around 3.30 or 4 o'clock.

Q. In other words, you came there around nine o'clock in the evening?

A. I would say around eight.

Q. Stayed there until about 1.30?

A. Probably 2 o'clock.

Q. And left for about an hour?

A. Fifty minutes or an hour.

Q. Then he came back?

A. Then came back.

Q. You left again around four?

A. Around 3.30 or four.

Q. How long were you gone that trip?

A. I guess about fifty minutes.

Q. And when you came back did you stay the balance of the morning?

A. Yes, sir.

Q. During that time did you, or did any one in your presence, Captain Williams, Sheriff Clark, Deputy Goodrich, Mr. Marshall, or any one else strike any of these defendants with their fist or with any other object, or did they threaten to shoot them, threaten to kill them?

A. No, sir.

Q. Did they promise them anything?

A. No, sir.

Q. Now you say that about ten or twelve were questioned that night?

A. Yes, sir.

Q. Explain to the jury about how long a period of time of questioning of each of these individuals would take?

A. Oh, from ten to fifteen, or may be twenty minutes.

Q. During the time they were questioned ten or fifteen or twenty minutes, did you, or any one in your presence use any force or coercion by threats made against them?

A. No, sir.

Q. After you questioned one of them for fifteen or twenty minutes, what would be done with them?

A. He would be taken back to his cell.

Q. Who in every instance brought these defendants and the other six or eight to this room, and who returned them?

A. Mr. Marshall, the jailer.

Q. Were you present when Mr. Maire and Mr. Coleman, the court reporter, and others, took the confessions of these four defendants?

A. Yes, sir.

[fol. 238] Q. About what time was that?

A. I judge around 6 or 6.30 or seven o'clock.

Q. In the morning?

A. In the morning, yes sir.

Q. Did you have an opportunity to closely inspect all the defendants, at that time?

A. I did.

Q. You see any fresh marks or bruises or scars on their body, or any blood on their body or clothing?

A. No, sir.

Q. What was their appearance?

A. Good shape.

Q. Who else was present there with you that you can recall in the room where the defendants and others were being examined that night?

A. Me and Sheriff Clark; Mr. Marshall, Captain Williams, Mr. Goodrich was there part of the time.

Q. How long a time would elapse after you would examine a particular individual until you might question him again?

A. Probably long enough to question ten or twelve.

Q. And about how long would you say that was?

A. I would say probably ten, fifteen or twenty minutes for each one, and probably be five minutes before we would get him back.

Q. In other words, after the questioning you mean it would take five minutes to take one back to the cell and bring another?

A. Yes, sir.

Q. Did you ever take a little rest during the night?

A. Yes, sir.

Q. About how long a rest?

A. I would say an hour and a half or may be two hours. We had lunch and coffee.

Q. Now during that hour and a half or two hours did you question, or attempt to question the defendants, or any of the others you questioned that night?

A. No, sir.

Q. About what time of evening did you start questioning any of these negroes?

A. Well, you mean in the afternoon?

Q. Any time you started?

A. Well, we questioned some of them in the afternoon, I guess it started around 3 or 3.30.

[fol. 239] Q. And did that keep up through the afternoon, or did it stop and start again later at night?

A. Until about 5.30 or 6 o'clock.

Q. Then when did it start in again?

A. I got back there about eight o'clock or may be 8.30 Saturday night.

Q. And then there was a period of an hour and a half or two hours when you were eating, that no one questioned any one?

A. That's right.

Q. Mr. Helton, while you were there did you have a chance to observe about how many hours sleep during the night these defendants had an opportunity to get?

A. Well I don't know as I could say about how many hours they had, but they had an opportunity to sleep at different times, to rest.

Cross-examination.

By Mr. Catts:

Q. On this particular Saturday afternoon, before the alleged confessions were obtained on Sunday morning, which I believe you all say was around 6.30 on Sunday morning, I understand you say about 3.30 P. M. on Saturday afternoon you began questioning the several prisoners who were in jail at that time?

A. Yes, sir, I came there about 3 or 3.30 that afternoon.

Q. Now at the time you came there were they already questioning them when you got there?

A. I wouldn't say whether they was or not, I don't remember.

Q. Where was this questioning going on?

A. On the fourth floor of the jail.

Q. Did you go on up to that room after you got to the jail?

A. Yes, sir.

Q. And you know about what time?

A. I think it was around that time.

Q. At the time you got there no questioning had begun so far as you know, but you know it was going on shortly after you got there?

A. Well, I don't know as we questioned any of these four negroes.

Q. You were questioning some prisoners in the jail from [fol. 240] that time on?

A. Not from that time on.

Q. Well you started at that time?

A. Yes, sir.

Q. And you say you questioned them until about six o'clock?

A. 5.30 or 6.

Q. From 3 to 3.30 to 5.30 or 6; that's right is it?

A. Yes.

Q. And then you left and came back about 8 or 8.30?

A. 8.30 or 9.

Q. And what did you do when you first came back this time?

A. You mean when I left that time?

Q. When you got back to the jail about 8.30. All right, where did you go?

A. I went up to the fourth floor.

Q. Who did you find up there that time, what officers?

Q. Sheriff Clark, Mr. Marshall, Mr. Williams; I think that was all.

Q. What were they doing when you got back there that night at 8.30 or 9?

A. I think they were questioning some of the prisoners we had there in the jail at that time.

Q. And then you say you stayed there until 1.30, one or 1.30 and left, and came back about 3.30 or 4?

A. No. I was gone about fifty minutes, or probably an hour.

Q. When did you leave?

A. One or 1.30.

Q. 1.30 A. M. on Sunday morning?

A. Yes, sir.

Q. Then you left and were gone about how long?

A. You mean at that time?

Q. Yes.

A. I was gone fifty minutes, or probably an hour.

Q. Then you must have come back around 2.30 at that time?

A. Something like that.

Q. Where did you go when you came back this time?

A. I went up to the fourth floor.

Q. Who was there at that time?

A. The same ones.

Q. Mr. Goodrich there at that time?

A. Mr. Goodrich went with me, made the trip and came back with me.

[fol. 241] Q. Then how long did you stay there after you got back?

A. We left there around 3 or probably 3.30, some time along there and made another trip to Pompano.

Q. How long did you stay at Pompano that time?

A. I stayed fifty minutes.

Q. Got back somewhere around 4.30?

A. Yes, sir, somewhere along there.

Q. And did you stay there until the alleged confessions were taken?

A. Yes, sir.

Q. Now, from the time that you were there at 8.30 or 9 in the evening to 1 or 1.30, you were there during all that time the questioning was going on?

A. From about 8.30 to 9—

Q. To about 1.30 the next morning you were there that time?

A. Yes, sir.

Q. On how many occasions during that time did you see either of these boys being questioned?

A. Well I don't think more than one time.

Q. You think you saw all of them up there at least one time?

A. Yes, sir.

Q. Did you see any of them up there more than one time?

A. I wouldn't say whether I did or not, I can't remember.

Q. Did you see any of the other witnesses; any of the other persons you had in jail?

A. How is that?

Q. Of the other six or eight persons that you said you were questioning in jail that night during this period of 8.30 to 1.30, did you see any of these persons up there more than one time during that period of time?

A. I don't think I did.

Q. Which ones were they, or who were the other six or eight persons that you said you saw down there that night that were questioned?

A. Four of these witnesses we have up here.

Q. Four of these witnesses outside here?

A. Yes, sir.

Q. You questioned them back and forth on that Saturday night?

Q. Can you name those four for me?

A. James Little, Frank Manuel, and the small one there, the small little nigger, call him Geech, I don't remember what his name is, and Willie Henderson.

[fol. 242] Q. Who were the other two or three or four they questioned that night?

A. I don't know as I could tell you their names, except one was from Pompano; he is not a witness here.

Q. He is not here now?

A. No, sir.

Q. You know anybody else that you know the names of?

Q. There was some that I don't know their names.

Q. Let me ask you this question; did you question anybody from the time that you came back off the first trip to Pompano which you said you made, when you say you left about one or 1.30, and got back around 2.30, did you question from that time on anybody but these four boys?

A. I don't think we questioned but one or two of them in that time.

Q. You think you did question one or two of these boys? I mean from the time you got back at 2.30.

A. I know what you mean. I think we questioned one or two of them during that time.

Q. You are sure you didn't question all four?

A. I am pretty sure.

Q. Which one of them did you question?

A. I think I questioned Charlie Davis and Jack Williamson.

Q. You didn't question Walter Woodward during that time?

A. I don't think from the time I left on the first trip until the next time, I don't think we questioned Walter. You said from then until we left on the next trip?

Q. No, I asked you from then to daylight?

A. Yes, sir, we questioned from then to daylight all four of them.

Q. Did you question anybody else except these boys during that time, from the time you came back from the first trip to daylight, anybody but these four boys?

A. I don't think after the time I went to Pompano.

Q. Besides these boys, they are the only ones you did question?

A. After that trip.

Q. Were you continually questioning these boys all the time that you were there, except you don't know what happened while you were gone?

A. No.

[fol. 243] Q. From 1.30 on until the alleged confessions, were you continually questioning these boys, and the one boy you brought back from Pompano, until the alleged confessions were made?

A. No, I made another trip to Pompano.

Q. Well all the time you were there were these boys questioned during that period of time?

A. Except the one I went to Pompano to get.

Q. Had you been questioning Walter Woodward any time between 1.30 and 2.30, until this time you were gone?

A. Yes, sir.

Q. Now then that takes care of the time from 1.30 until 6.30, except the time that you wasn't there.

A. I don't know what happened then.

Q. But the time between 1.30 and 2.30 when you got back, until daylight, until about six o'clock, you questioned these boys?

A. No, I made another trip to Pompano after that.

Q. Excluding that time, you were there all the time, you were there during the time you questioned these boys?

A. We questioned the one I brought from Pompano.

Q. From 8.30 until about 1.30, I say you questioned all of these boys at least once?

A. I think we did.

Q. You questioned five, these four and the boy you brought from Pompano, making six, during the period from 8.30 until one?

A. We had lunch about twelve.

Q. You had lunch between twelve and the time you left?

A. Yes, sir.

Q. You took kind of a rest during that time?

A. Yes, sir.

Q. Then the questioning was going on between 8.30 and 9 until around twelve, midnight, when you had lunch?

A. Yes, sir.

Q. And the lunch lasted until you went to Pompano?

A. Yes, sir.

Q. And all during the time now that you have related that you were there from 8.30 or 9, when you got there—just call that 8.45 for short, say about 8.45 to about twelve, you [fol. 244] were questioning these prisoners, and some others?

A. Yes, sir.

Q. That's correct, is it?

A. Yes, sir.

Q. Now from the time you got back at 2.20 or 2.30, call it 2.25, until you went back to Pompano, which was around 3 or 3.30, excluding the time you were out both times, from the time you got back around 4.30 until the alleged confessions were made—I am talking about the time you left the first time and the boy being brought back from Pompano—they were questioning during all that time that you were there present?

A. Yes, sir, that's when they were making the confessions.

Q. They were making the confessions around 6.30, but they were the boys that you had in there, these four boys, and the one from Pompano, during that period of time, were they not?

A. Yes.

Q. Would you say Jack Williamson was not brought up in that room and questioned that Saturday afternoon; you say some of these boys were, you don't know just who; you said you didn't think these boys?

A. I didn't say I didn't think any of these boys, I said I didn't remember.

Q. You wouldn't say he wasn't up there?

A. No.

Q. Would you say Walter Woodward wasn't up there that afternoon?

A. He probably was.

Q. You think he was up there that Saturday afternoon?

A. I wouldn't say.

Q. Would you say Izell Chambers wasn't up there?

A. I couldn't say.

Q. But you think probably Jack Williamson and Walter Woodward were up there Saturday afternoon?

A. I think they were.

Q. Were you gone that night when Mr. Maire first came over there; did he get there while you were gone out, after

you had come back—what do you know about Mr. Maire being there the first time?

A. I was there when he came in.

Q. About what time was that?

A. That was around 11 o'clock.

Q. Eleven o'clock?

A. Yes, sir.

Q. Who were you all questioning when he came over—the [fol. 245] State's attorney is the one you are talking about?

Q. Yes, I know. I think it was Walter Woodward.

Q. Could you be mistaken about that?

A. Sure.

Q. Could it have been around two o'clock that Mr. Maire came over there?

A. It could have been.

Q. You don't know whether it was before the rest period or after?

A. I believe it was before, but I wouldn't be positive.

Q. You think it was before. Tell the Court and jury what you did during the rest period?

A. We had lunch and coffee, sat down and talked.

Q. Who all was present—was the lunch being served to you in there in the same place where you were doing the questioning?

A. Yes, sir.

Q. Who all was present while you had lunch?

A. The Sheriff, Mr. Marshall, Mr. Williams, and a Mr. Neal, I think it was.

Q. Who is Mr. Neal?

A. That is the gentleman that was up there with us.

Q. Is he one of the officers of the County?

A. No.

Q. You, the Sheriff, Mr. Marshall, Mr. Williams and Mr. Neal. Was Mr. Goodrich there?

A. I don't think Mr. Goodrich was there.

Q. Was Bob Clark there?

A. It seems like he come in there. I wouldn't say positively.

Q. Mr. Maire wasn't there at that time?

A. I don't think he was there when we had lunch.

Q. Captain Williams was there, I believe you said?

A. Yes, sir.

Q. During the time that you were resting and having your lunch, the boys were taken back downstairs to their cell?

A. Yes, sir.

Q. How many times during the whole night, Mr. Helton, would you say Walter Woodward was brought up in that room and questioned by any of you?

A. Well, I wouldn't say because they probably brought him up there while I was away.

Q. That you know of, of your own knowledge?

[fol. 246] A. Probably twice.

Q. You don't think he was questioned but twice that night while you were there?

A. Not until he broke and wanted to tell it.

Q. What time was that?

A. It was early in the morning.

Q. It was just before daylight?

A. Just before.

Q. What do you mean "when he broke"?

A. When he started to tell it.

Q. Tell just what happened to him when he broke?

A. He just told us he wanted to tell it, get it off his system, he wanted to tell it.

Q. How long had he been questioned at that time?

A. Not very long.

Q. Well about how long?

A. I would say fifteen or twenty minutes.

Q. That's as long as you questioned any of them?

A. I think it was.

Q. Had you been there continually during all that fifteen or twenty minutes?

A. You mean that he was questioned?

Q. When you say he broke. Had you been there the fifteen or twenty minutes immediately preceding the time that you said he broke, or had you been in and out of the room?

A. I think that the first time that he wanted to talk was when I went to Pompano the last time.

Q. I am talking about this time when you said he broke? Had you been there and see everything that happened for the fifteen or twenty minutes that you said he was there, had you sat there in the room all the time?

A. Yes, sir.

Q. Who had been doing the questioning?

A. Captain Williams.

Q. And who else?

A. Myself.

Q. And who else?

A. The Sheriff.

Q. And who else?

A. I think that was all.

Q. You were all questioning him then, all asking him questions during that period of twenty minutes?

A. I think so.

Q. You had no regular procedure in asking him questions, just any one that felt like it?

A. Yes, sir.

Q. And you asked questions until you got tired, and others [fol. 247] took it up? I want the jury to get the picture of what happened there that night. Tell them how the questioning went on.

A. Probably I would think of something to ask, and then the other men would ask him.

Q. One right after the other as you thought of it each of you would ask him questions?

A. Yes, sir.

Q. You sure he wasn't struck at that time?

A. No, sir.

Q. Anybody down there ever accuse him of lying while you were there?

A. No, sir.

Q. You never heard Captain Williams accuse him of lying?

A. No, sir.

Q. You ever accuse him of lying?

A. No, sir.

Q. Did you ever catch him in a lie?

A. I had no right to catch him in a lie.

Q. You were there when Mr. Maire was there the first time?

A. Yes, sir.

Q. How long did Mr. Maire stay there that first time?

A. I guess he stayed there probably half an hour, or may be an hour. I wouldn't say how long.

Q. If it happens that Mr. Maire came there around 2 or 2.30, he got there in the time you think you had gone to Pompano, don't it?

A. If that's the way it turned out.

Q. Still you were there when Mr. Maire came, weren't you? You are not real definite about the particular hour you have given. You didn't look at your watch to determine just what the hour was?

A. I look at my watch at different times?

Q. Don't you know now you got back there at 8.30 or 9, and didn't you look at your watch then?

A. No, I judge from the time I left home.

Q. And you were there all the time that Mr. Maire was there, you were there when he got there the first time, and you were there when he left the first time?

A. Yes, sir. I wouldn't say I was there when he left, but I was there when he got there.

Q. You think he stayed there about an hour?

A. Yes, sir.

[fol. 248] Q. How many times would you say you took—not you but Mr. Marshall, or anybody, brought Jack Williamson up to that room that night?

A. I couldn't say.

Q. From 8 o'clock until one o'clock?

A. I couldn't say just how many times.

Q. I believe you have testified that each of them were brought up there at least once during that time?

A. Yes, sir.

Q. Can you testify to this jury he wasn't brought up there more than one time?

A. No.

Q. As a matter of fact, you wouldn't tell the jury now under oath, from your memory of that occasion, how many different times any one of these boys were brought in there, would you?

A. No.

Q. You know they were brought up up there at least once?

A. Yes, sir.

Q. And how many more times than once you don't know of your own knowledge?

A. No.

Q. You do know the majority of the time in the morning from 2.30 on, that you were at the jail, you were questioning these four boys and the boy you brought back from Pompano?

A. Yes.

Q. Were you there when Mr. Maire talked to Walter Woodward the first time he came over there?

A. Yes, sir.

Q. Take his confession down in writing?

A. Yes.

Q. What did he do with it?

- A. I don't know.
- Q. What did he say about it?
- A. I don't remember what he said about it.
- Q. You don't remember what Mr. Maire said about it?
- A. I don't remember what he said about it.
- Q. If he made a confession why did you all keep on questioning him about it. As a matter of fact, what he said that time wasn't what you wanted him to say, was it?
- A. It wasn't what he said the last time.
- Q. It wasn't what you wanted him to say, was it?
- A. We didn't think it was all correct.
- Q. You didn't think it was correct?
- A. No, sir.
- Q. What part of it did you think wasn't correct? Would [fol. 249] you say what he told you there at that time was freely and voluntarily made?
- A. Yes, sir.
- Q. Freely and voluntarily made?
- A. Yes, sir.
- Q. What he freely and voluntarily told you in the way of a confession at that time, it wasn't what you wanted?
- A. It didn't make up like it should.
- Q. What matter didn't make up?
- A. There was some things he told us that couldn't possibly be true.
- Q. Did you investigate it to see?
- A. If it could be done, we had it investigated.
- Q. What did Mr. Maire say about it at that time; did you hear Mr. Maire say at this time "tear this paper up, that isn't what I want, when you get something worth while call me," or words to that effect?
- A. Something similar to that.
- Q. That did happen that night?
- A. Yes sir.
- Q. That was in the presence of Walter Woodward?
- A. Yes, sir.
- Q. That's the time you think was about eleven o'clock at night?
- A. I didn't say just what time it was.
- Q. You think it was before you ate?
- A. I believe it was, I wouldn't be positive what time.
- Q. Would you say it was before or after you came back from Pompano the first time?

A: I think it was before I went to Pompano the first time.

Q. You think it was before you went to Pompano the first time?

A. Yes, sir.

Q. Did you see any of these four boys here, the petitioners, that night any place other than in the room where you were questioning them?

A. No, sir.

Q. Then so far as you know of your own knowledge they didn't get any sleep; if they say they didn't get any sleep, they didn't get any sleep so far as you know?

A. They were taken out of the room.

Q. They didn't sleep when you were questioning them?

A. No.

Q. You don't know what happened the rest of the night [fol. 250] when they weren't in there where you were?

A. No.

Q. I believe you testified on direct examination that you were around the jail quite frequently that week?

A. Yes, sir.

Q. That's Broward County jail?

A. Yes, sir.

Q. How many times would you say you were down there that evening?

A. Four or five different times.

Q. In the day or night?

A. Mostly in the day time.

Q. On any of these four or five occasions that you were down there during the week, did you see either of these defendants?

A. I saw Jack Williamson.

Q. Was he the only one you saw the whole of that week?

A. I believe I saw Charlie Davis, but I don't know that I saw any of the rest during that week.

Q. Where did you see these two boys?

A. I see Jack Williamson down in the Sheriff's office one time; I see Charlie Davis up in the cell.

Q. Mr. Helton, as a matter of fact during that week, up there in the same place that you were on that Sunday morning when the confessions were made, some of the officers during practically the entire week were questioning some one in this case up there in that room?

A. I don't think during the week, except Jack Williamson and probably Izell Chambers.

Q. You don't know of your own knowledge now any examination or questioning that was done of any of these boys during the whole week except Jack Williamson and Izell Chambers?

A. In my presence, yes, sir.

Q. You do know they were examined during that week in your presence?

A. Those two, yes, sir.

Q. But as to all these people they had in the jail, weren't they questioning them during the whole of the week, some of them at different times all during the week every time you were down there wasn't somebody questioning some of them?

A. Every time I was down there they were questioning some of them.

[fol. 251] Q. Some of these people; they had twenty or thirty of them in jail?

A. Must have had about 32.

Q. And during every one of these times you were down there they were questioning some of these thirty two?

A. Yes, sir.

Q. You were down there on at least four or five occasions during the week?

A. I wouldn't say just how many; four or five.

Q. Did you see Captain Williams down there every time you went down?

A. He was there probably twice when I went down there.

Q. You say you went down there in the day time?

A. Yes, sir.

Q. And was it night the times you saw him there?

A. I think it was.

Q. How long would you stay down there when you would go down there on the four or five different occasions?

A. How long would I stay there; probably three or four hours.

Q. And during most of the time you were there they were still investigating this homicide and examining some of these thirty two people they had under apprehension all during the four or five times you went down there at different times during the week?

A. Yes, sir.

(Witness excused.)

Thereupon Court adjourned to 9 o'clock A. M. Wednesday, October 14, 1936.

Wednesday, 9 o'clock, October 14, 1936.

ROBERT L. CLARK, being first duly sworn by the Clerk, testified on behalf of the State as follows:

Direct examination.

By Mr. Maire:

Q. Mr. Clark, did you hold any official position in Broward County on the 13th day of May, 1933?

A. Yes, sir.

Q. What official position was that?

A. Deputy sheriff.

Q. Are you related to Sheriff Walter R. Clark of Broward County?

A. Yes, sir.

Q. What relation are you to him?

A. Brother.

Q. You know these petitioners, any one of them, when you see them?

A. Yes, sir.

Q. Which ones do you know?

A. I know all of them.

Q. Did you have anything to do with the arrest of any of them?

A. Yes, sir.

Q. Which ones?

A. I arrested all of them.

Q. Were any of them placed in the Pompano jail after they were arrested that you know of?

A. No, sir.

Q. None of the four?

A. No, sir. Yes, I beg your pardon, Charlie Davis.

Q. What about the others?

A. The other three were not.

Q. Where were they taken when they were arrested, if anywhere?

A. To Broward County jail at Fort Lauderdale.

Q. What other officers were with you when you arrested them?

A. Dick Goodrich, Chief of Police at Pompano, Mr. Maddox, Mr. Helton, Mr. Bert Helton, I don't know his initials.

Q. And were you present with the petitioners that were arrested, at a time after they were arrested, with other officers?

A. Yes, sir.

[fol. 253] Q. Did you ever see Chief Maddox beat Izell Chambers after he was arrested at Pompano?

A. No, sir.

Q. Did anybody beat any of these petitioners at the time they were arrested?

A. No, sir.

Q. Did you, or anybody in your presence, at that time beat, threaten, strike, kick or illtreat any of them?

A. No, sir.

Q. When did you first see Charlie Davis?

A. Saturday night or early Sunday morning of the night the crime was committed.

Q. Did you go to the Pompano jail by yourself that night?

A. Yes, sir.

Q. Was Captain J. T. Williams ever there at any time you were there?

A. Yes, sir.

Q. Did Captain Williams hit or beat or strike or threaten any of them in the Pompano jail while you were present?

A. No, sir.

Q. Did anybody else in your presence?

A. No, sir.

Q. What was done with these petitioners when they were brought to the Broward County jail, if you know?

A. I brought these three, Williamson, Woodford and Chambers and placed them upstairs in the jail and left them there.

Q. What part of the jail?

A. I believe they were separated, some on the third floor and some on the fourth floor; I am not positive.

Q. Were any of them taken in the Sheriff's office at that time?

A. No, sir.

Q. Do you know whether or not at that time any one of them was taken in the Sheriff's office and knocked up against the wall?

A. They weren't stopped at the Sheriff's office, they were taken right through the jail.

Q. What floor is the Sheriff's office?

A. In the basement.

Q. What floor is the jailer's quarters on?

A. Third and fourth floor.

Q. Did any one in your presence, at the time any of these petitioners were arrested, force them to try to run?

A. No, sir.

Q. Did you, or did anybody in your presence, at the time [fol. 254] tell them that they had to run because if they didn't they would be lynched?

A. No, sir.

Q. Or that they were in danger of any kind of mob violence?

A. No, sir.

Q. Did you ever hit Jack Williamson with a pistol?

A. No, sir.

Q. Did you see them during the week after they were arrested there in the jail?

A. I may have seen them. I was in and out of the jail at times, I may have seen them there.

Q. Did you have anything to do with any questioning of any of the petitioners?

A. No, sir.

Q. At any time, from the time they were arrested, right up until the present time, have you personally ever hit, struck, beat, kicked, hit with a rubber hose or club, or with your fist any of these four petitioners?

A. No, sir.

Q. Has any one ever done that in your presence?

A. No, sir.

Q. Have you, or anybody in your presence, at any time ever threatened any one of them?

A. No, sir.

Q. Have you, or anybody in your presence, at any time ever made any inducements or promises to them to induce them to make a confession?

A. No, sir.

Q. Have you, or any one in your presence, ever tied a rope around the neck of any of them and pulled them up while others were beating them in order to force a confession out of them?

A. No, sir.

Q. Did you or Captain Williams, or anybody else, mistreat them in any way?

A. No, sir.

Q. Were you present on Saturday night or Sunday morning May 21, 1933, when the alleged confessions were taken from them?

A. No, sir.

Q. Were you present at the jail any time that night?

A. No, sir.

Q. Where were you, Mr. Clark?

A. I don't remember the exact place. I was probably out patrolling in the line of duty.

Q. Do you know when the confessions were supposed to have been taken?

A. I heard they were taken early Sunday morning.

Q. How soon was it after that before you saw any of them?

[fol. 255] A. I don't know whether I saw them Sunday. I know I saw them Monday.

Q. You swear you saw them the following Monday?

A. Yes, sir.

Q. At the time you saw them Monday did you see any signs of bruises or fresh scars on the person of any of them?

A. No, sir.

Q. Or any blood upon them or upon their clothing and their body?

A. No, sir.

Q. Did you see anything at that time that would indicate they had been beaten, maltreated or injured the Saturday night preceding?

A. No, sir.

Q. Did they ever make a statement to you at any time to that effect?

A. No, sir.

Cross-examination.

By Mr. Catts:

Q. Mr. Clark, about what time of night was it that you arrested these three boys? I believe you said you were there when they were arrested, but you arrested only these three?

A. The early part of the night Sunday night.

Q. Where did you find the boys at the time when you arrested them?

A. In a little house in Blount's quarters at Pompano.

Q. Who all was with you at that time?

A. Mr. Helton—

Q. That's constable Helton?

A. No, sir, brother of the constable. Mr. Goodrich.

Q. He is a deputy sheriff?

A. He was at that time, and Mr. Maddox.

Q. He is Chief at Pompano?

A. He was at that time.

Q. When you first went to this place that night, how did you get in the house?

A. I went to the back door of the house with one of the other officers, and two of them went to the front door, and they came and opened the back door when I came in.

Q. The other officers actually went into the house before you did?

A. The ones that went to the front, yes sir.

Q. Who made the arrest at that time, if you know? Was the arrest made after you came in or before you came in?

A. They were talking I think before I came in.

[fol. 256] Q. Who put the handcuffs on these boys that night?

A. I don't remember.

Q. You put any handcuffs on any of them?

A. I couldn't swear to it; I possibly did.

Q. Did you have any handcuffs with you?

A. I think I did, I am not positive about that.

Q. That was Sunday night?

A. Yes, sir.

Q. What did you tell these boys when you arrested them, or what did any officers tell them in your presence at the time of the arrest?

A. They told them they were under arrest.

Q. Anything else?

A. I don't recollect the exact words.

Q. Well the substance of what you told them at that time; tell them what you arrested them for?

A. I don't think so.

Q. Have any trouble getting them up?

A. No.

Q. Were they in bed when you went there?

A. I think one or two of them were in bed when I went in the house; I am not positive.

Q. Who woke them up, these two?

A. They weren't asleep; I don't think.

Q. Did you see Mr. Goodrich hit one of them on the foot with a black jack?

A. No, sir.

Q. Would you say that didn't happen after you went in the building?

A. I don't think it did.

Q. That happened you think before you went in the building? Mr. Goodrich said he did tap one of them on the foot with a black jack you think that happened before you went in the building?

A. It may have.

Q. If it did at all, it must have happened before you went in there?

A. Must have.

Q. You didn't hear what the officers said to them before you went in?

A. No; just a matter of a few seconds.

Q. How far away did you park your car from this house?

A. I don't know; may be 75 or 100 feet, I believe; I am not positive.

[fol. 257] Q. You have any other prisoners with you at that time?

A. Yes, sir.

Q. Who?

A. Frank Manuel.

Q. Where was he?

A. We brought him up near the house, left him right within a few feet of the house.

Q. Did you handcuff him to the machine, to an old automobile out there?

A. I think someone did.

Q. You didn't leave him sitting in the back of your car with Mr. Goodrich to watch him while you went in and made the arrest?

A. No, sir.

Q. If he says that's what happened, he is mistaken?

A. Yes, sir.

Q. On the way back to your car after you made the arrest did you pick Frank Manuel up again; you go by there with these prisoners where he was?

A. Yes, sir, Frank was taken in with these other prisoners.

Q. Did any of the boys come out of that house that night without their shoes?

A. I don't think they did.

Q. You know Walter Woodward, don't you?

A. Yes, sir.

Q. You arrested him there that night?

A. Yes, sir.

Q. As a matter of fact he didn't have on any shoes at all and didn't have any around the jail for some little bit after he was arrested, did he?

A. I think one of the boys when they got near to the car mentioned he had lost his shoe after he left the house and wanted to go back, I believe that's what he said, but we wouldn't take him back to hunt his shoe.

Q. Did he have on one shoe then?

A. I think that's correct.

Q. You take them to the jail and you search them?

A. Yes, sir.

Q. Isn't it customary with you to search these prisoners?

A. Yes.

Q. Now can you tell whether he had shoes or not?

A. I remember one of them mentioning at the time we got between the house and car, saying he had lost his shoe.

Q. Did you look at him that night in jail to see whether he had on his shoes?

A. I couldn't remember. We arrested some without shoes [fol. 253] sometimes. I don't remember whether all these boys had on two shoes or not.

Q. Were you in a hurry about getting these boys out of the house that night?

A. Not particular. We were quite busy about that time; we made several arrests.

Q. When you arrived there you might have been on account of some other arrests, or the fact you were busy; is that the idea?

A. Yes, sir.

Q. Wasn't afraid of any mob violence?

A. No, sir, I don't think so. I can't say we were afraid of any mob violence.

Q. Can you say you were, or can you say you were not?

A. I was not.

Q. Did you take them on down to Dade County on Monday or Tuesday?

Q. We took some down there one day.

Q. Were you afraid of any mob violence then?

A. That was the orders from the Sheriff.

Q. Wasn't with any idea of this they were taken down?

A. I don't think so.

Q. You know Captain J. T. Williams, don't you?

A. Yes, sir.

Q. You see him Saturday night—were you around Pompano Saturday when Davis was arrested?

A. Yes, sir.

Q. You made the arrest yourself?

A. Yes, sir.

Q. Who else helped make it?

A. Chief Maddox.

Q. Any one else?

A. I think not.

Q. What did you do with Davis after you arrested him?

A. Took him to Pompano city jail.

Q. You see Captain Williams up there that night?

A. I saw him several times.

Q. Saturday night?

A. Yes, sir.

Q. Where did you see him?

A. I saw him most of the time out in the fields or in the woods with the blood hounds he had there.

Q. You ever see him around Pompano jail that night?

A. I may have, but if I did it was just a short time; he [fol. 259] was working with the dogs most of the time.

Q. You know you saw him on more than one occasion on that Saturday night.

A. Yes, sir, on Saturday night and Sunday morning.

Q. At the last trial of this case, Mr. Clark, which was held in the County court house at Fort Lauderdale in February, 1935, was this question asked you: "When did you first see Charlie Davis"? And your answer: "I saw him Saturday night, the 13th"? Was that question asked you down there that time?

A. It may have been, yes, sir.

Q. The next question is "Where? (a) Pompano jail." Was that question asked you and that answer given by you?

A. I don't think it was.

C. The next question: "Who else was there? (A.) Well Chief Maddox and I think several other people." You remember that question being asked you?
A. It could have been.

C. Tell do you remember?

A. No, sir, I don't remember the exact answer I gave to you, but I remember the questions a year and a half ago.

Q. You don't remember any of your answers at that time?

A. I don't remember the exact words.

Q. Was this question asked you: "Was Captain J. T. Williams there when you saw him? (A.) No, sir, don't think he was. (Q:) Do you know whether or not Captain Williams saw him there that night or not? (A.) I don't know whether he did or not." Were those questions asked you, do you remember?

A. I expect they were, yes, sir.

Q. Are all of those questions and answers now true or false?

A. I expect they are true.

Q. You don't mean to tell this jury now the first time you saw Charlie Davis was at Pompano jail, do you?

A. No, sir, I arrested Charlie Davis that night.

Q. Was this question asked you: "How often did you see the four petitioners or any of them after they were placed in the Broward County jail? (A.) I don't remember seeing any of them."

[fol. 260] A. Yes, sir, I answered that question that way.

Q. I believe I understood you to tell the jury a while ago you thought you had seen them some time from the time they were put in jail until the following Sunday morning?

A. We had fifty or sixty prisoners in jail and I was through there several times. I don't remember the particular niggers I did see.

Q. You don't remember any particular occasion when you see any one of these boys from the date they were arrested until Sunday morning?

A. I probably saw—

Q. I didn't ask you what you probably did. Do you remember whether you did or did not see any of these boys during that time?

A. I couldn't swear I saw any of them.

Q. You don't know anything of what happened to these boys during that period of time, do you, of your own knowledge?

A. No, sir.

Q. Where they were kept, whether they were all kept together, or whether separate, or how often they were taken out of their cells, you are not familiar with it?

A. No, sir.

Q. Who is Captain Williams?

A. He is a man I met about that time, or a little while before that.

Q. Where did you meet him?

A. In Fort Lauderdale.

Q. Was he an officer of Broward County?

A. No, sir, I don't think he was.

Q. Was he an officer of the law of any kind?

A. I don't know about that, sir.

Q. Well now do you know what his business was at that time?

A. He appeared to be a State convic guard.

Q. You know where he was stationed at that time, just prior to the time he came down on this case?

A. I think west of Boynton.

Q. In Palm Beach County?

A. I believe so.

Q. And you did see him on several occasions on Saturday night?

A. Yes, sir.

[fol. 261] Q. That was the Saturday night when Charlie Davis was arrested?

A. Yes, sir.

Q. How large a man was Captain Williams?

A. He was a short heavy-set fellow, probably five feet 6 or 7 tall, maybe.

Q. How much did he weigh?

A. 200 pounds, may be 215, or 220.

Q. As large as you, was he just about your size?

A. About my weight; he wasn't as large a man.

Q. Not as tall as you are?

A. No.

Q. But he weighed about the same?

A. I think so.

Q. During the time he was down there did he carry a pistol when you saw him around Pompano that night, or side arms or any kind?

A. I saw him armed several times, but I am not positive about that night.

Q. You don't know what particular times you saw him armed or unarmed?

A. I know I see him armed some other times when he was down there with his convicts several times.

Q. Now during this investigation on Saturday night until the next Sunday morning, during the time you saw him there, was he armed or unarmed?

A. I couldn't say I ever saw him armed at that time.

Q. Well you saw him, didn't you?

A. Yes, sir.

Q. Was he armed or was he not?

A. I wouldn't be positive about that.

Q. Never saw him with a pistol?

Q. I wouldn't say I hadn't seen him with a pistol.

Q. You see him with a black jack?

A. No, sir, I never saw him with a black jack.

Q. I believe you testified when these prisoners were taken to the jail, these three boys, the whole four were not taken down at the same time?

A. No, sir.

Q. Shortly after the three were arrested you took them to Broward County jail; who went down in the car with you?

A. Williamson and Woodward.

Q. And when you took them to the Broward County jail, I believe you said they were separated. Did you yourself [fol. 262] conduct them to the cells, or did you turn them over to the jailer?

A. I don't remember about that.

Q. You testified a few minutes ago that they were separated when you took them over to the jail there in Broward County, didn't you?

A. As a rule, if several prisoners are charged with the same offense they are separated, as these boys were, but I wouldn't be positive about it.

Q. You don't have a direct recollection now in your mind of any of these particular matters that you are testifying to, do you?

A. I remember the arrest very distinctly.

Q. Well now some things about the arrest you don't remember very well; you don't remember what was said to them after you went into the house, and the other details I asked you about, you don't remember about that. It isn't as fresh in your memory right now just what you did. You don't remember whether you took them to the cells or whether the jailer took them there; you don't remember now whether they were put in separate cells?

A. I went upstairs with them, but the jailer may have been there.

Q. Did you separate these boys, or did you not separate them when you put them in the cells, either you or the jailer?

A. I wouldn't say positively.

Q. Did you at any time see Captain Williams at Pompano jail on Saturday night?

A. I saw him in Pompano several times.

Q. But at the Pompano jail, do you now remember whether you saw him at the jail?

A. I couldn't say.

Q. You are sure now you did arrest Charlie Davis?

A. Yes, sir.

Q. And if the record shows, the transcript of testimony by the court reporter at the last hearing, you said the first time you saw Charlie Davis was in Pompano in jail, that's a mistake?

A. He was arrested—

Q. I am asking you about the record, if that record shows your statement at the last hearing in this case in February, 1935, that the court reporter's record shows that you said [fol. 263] at that hearing the first time you saw Charlie Davis was at Pompano jail, then that record is wrong; did you say that or did you not say that?

A. I expect I did, because he was arrested almost at the Pompano jail, he was arrested just a very short distance, within a block of the Pompano jail.

Q. Did you arrest him?

A. Yes, sir.

Q. Then the first time you saw him wasn't at the Pompano jail, was it?

Q. The first time I saw him was in his house.

Q. That's what you tell this jury, that the first time you saw Charlie Davis was in his house, about a block away from the jail?

A. Yes.

(Witness excused.)

LOUIS F. MAIRE, being first duly sworn by the Clerk, testified on behalf of the State as follows:

Direct examination.

By Mr. Salisbury:

Q. Please state your name?

A. Louis F. Maire.

Q. What was your official position, if any, in May 1933?

A. State's attorney for the Twenty Second Judicial Circuit of Florida, in and for Broward County.

Q. Mr. Maire, do you remember the occasion when a Mr. Darcey was robbed down in Pompano, Florida?

A. Yes.

Q. You remember the occasion when an investigation was being undertaken by the Sheriff's office and yourself in connection with that?

A. Yes, sir, I do.

Q. Have you ever seen these four petitioners sitting over there before, Charlie Davis, Chambers, Woodward and Williamson?

A. Quite often; quite frequently, yes, sir.

Q. Mr. Maire, do you recall the time that you were called in to take confessions from these four petitioners?

A. Yes, sir, I do.

Q. Do you recall what day that was?

[fol. 264] A. The first one I saw Walter Woodward; that was early on Sunday morning, I believe, the 14th day of May.

Q. Where?

A. In my office in the Broward County court house.

Q. What was his appearance when you saw him that morning?

A. Just as good as it is right now.

Mr. Catts: Didn't you make a mistake when you said the 14th of May?

Witness: It was early Sunday morning of the 21st, that's right, Mr. Catts. Thank you.

Q. What was his appearance?

A. Normal.

Q. You see any fresh bruises or cuts or abrasions, anything of that description on any part of his body that was exposed?

A. Not a one, no sir.

Q. Did you see the other three petitioners?

A. Not at that time.

Q. Later, did you?

A. Yes, at 6.30 o'clock that Sunday morning.

Q. You saw Walter Woodward earlier?

A. Yes.

Q. In your office?

A. Yes. And by the way, we took him not on the floor of the jailer's quarters, it was on the floor below.

Q. Did you have any talk with Walter Woodward?

A. Oh, yes.

Q. Was any one present when you talked to him?

A. Part of the time.

Q. Did you at any time take him in your private office alone and talk to him?

A. I didn't take him in my private office alone, but I asked the other officers to step out while I talked with him alone.

Q. You did talk to him alone?

A. I did.

Q. Did you caution him as to his constitutional rights?

A. I did. You want me to tell what I told him?

Q. Please.

A. I had these officers step out. I told him I was State attorney. It was the State attorney's duty to protect [fol. 265] people, the same as it was to prosecute them. I asked him if he had been mistreated, beat, bruised, threatened or coerced in any way. He said that he had not. I said "now, you needn't be afraid to tell me the truth, because if anything like that has happened, if you will tell me I will go to Circuit Judge Tedder and have you removed to some other jail for your own safety and protection. He told me right then and there that nothing like that had happened. Then the officers came in and we questioned him.

Q. Mr. Maire, do you make a practice of warning every one, or cautioning every one in that same manner before they attempt to make a confession?

A. I always, do Mr. Salisbury.

Q. Now did you see all four petitioners later; I believe you said you did?

A. I did.

Q. About 6.30 in the morning?

A. Yes.

Q. What was their appearance at that time?

A. Their appearance was normal.

Q. Did you see any fresh wounds, cuts or abrasions of any description or character on any part of their body?

A. Not a one, sir.

Q. Did you have a conversation with them in which you warned them of their constitutional rights?

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A. I did, every one of them, in the presence of each other, and every one of them singly.

Q. It has been stipulated and agreed between counsel that the first two pages and the first three lines of page 3, as well as the last half of page 29, shall be introduced in evidence. I will ask you to read to us the questions and answers that were given at that time by each of these defendants.

Q. Testimony of Jack Williamson, Izell Chambers, Walter Woodard and Charlie Davis taken in the presence of B. B. Johnson, W. F. Ford, W. C. Goodrich, Walter R. [fol. 266] Clark, R. C. Helton, A. D. Marshall, H. H. McNeal, J. T. Williams, Louis F. Maire, and J. W. Coleman, Court Reporter, on Sunday, May 21, 1933, at 6.30 o'clock A. M.

By Mr. Maire:

Q. Your name is Jack What?

A. Williamson.

Q. Jack Williamson?

A. Yes, sir.

Q. Jack, do you want to make a statement about a case involving the robbery of Mr. Darcey at Pompano on Saturday, May 13th, 1933?

A. Yes, sir.

Q. Has anybody mistreated you in any way to induce you to talk, anybody beat you or hit you or anything like that?

A. No, sir.

Q. Has anybody promised you any regard or anything at all to get you to talk?

A. No, sir.

Q. You want to make a statement just to tell the truth about it in the presence of all these men?

A. Yes, sir.

Q. And your name is Izell Chambers?

A. Yes, sir.

Q. Do you want to tell about the case involving the holdup of Mr. Darcey at Pompano on Saturday May 13th 1933?

A. Yes, sir.

Q. What you are going to say you are going to say it because you want to say it and not because anybody has beat you or abused or hurt you or anything?

A. No, sir. They haven't.

Q. In order to get you to make a statement has anybody promised you anything, any reward or favor?

A. No, sir.

Q. Nobody has mistreated you, beaten you or abused you in order to induce you to make a statement?

A. No, sir.

Q. And whatever statement you make you are making it of your own free will and accord, voluntarily and of your own free will?

A. Yes, sir.

Q. Your name is Walter Woodward?

A. Yes, sir.

Q. Do you want to tell about this occasion too when Mr. Darcey was robbed on Saturday night May 13 at Pompano?

A. Yes, sir.

Q. Has anybody promised you any reward or anything to get you to talk?

A. No, sir.

Q. You just want to talk because you want to tell the truth about it?

A. Yes, sir.

Q. Charlie Davis, do you want to make a statement and tell what you know about the holdup of Mr. Darcey at Pompano on May 13, 1933?

A. Yes, sir.

Q. Has anybody beat you or forced you in any way to make the statement you are about to make?

A. No, sir. They have not.

Q. In order to induce you to make a statement has anybody promised you any reward or anything to get you to do it?

A. No, sir.

[fol. 267] Q. You want to make a statement freely and voluntary, of your own will?

A. Yes, sir.

Q. And tell the truth about it?

A. Yes, sir.

Questions by Mr. Maire:

Q. Now, boys, in the presence of all these people that are here now, I am talking to all of you now; the statements that you have made here in the presence of these men, you are making these statements of your own free will and accord, is that true?

A. Yes, sir.

Q. You want it left just that way?

A. Yes, sir.

Q. You have told the truth about it?

A. Yes, sir.

Q. And nobody has beaten you?

A. No, sir.

Q. Nobody has threatened you?

A. No, sir.

Q. Nobody has promised you anything?

A. No, sir.

Q. Nobody has done anything except question you about it, is that it?

A. Yes, sir, that is it."

Q. Now will you read the latter part of page 28?

A. This was after the boys had all been questioned.

Q. Who was asking the questions?

A. I am.

Q. I want to ask Izell Chambers another question. Izell Chambers was asked and answered as follows:

Q. Izell did you hear Jack Williams in the presence of all of you four boys admit that he also hit Mr. Darcey?

A. He spoke it, yes, sir. We heard that. Walter Woodward was asked and answered as follows:

Q. Walter Woodward, did you hear Jack Williams make the statement in the presence of all you boys that he hit Mr. Darcey?

A. Yes, sir.

Q. Now, Mr. Maire, refer to the first page, which is also stipulated in the record, and state what witnesses were present at the time those questions were asked and they gave those answers?

A. B. B. Johnson; he is the gentleman that testified yesterday, I believe.

Q. Is he a law enforcement officer?

A. No, sir. Private citizen. W. F. Ford, W. C. Goodrich, deputy sheriff, Walter R. Clark, R. C. Helton, who was constable at Pompano, A. D. Marshall, the jailer, H. H. McNeal; I don't believe he was an officer, I had never met Mr. McNeal before. J. T. Williams, Mr. Coleman, the Court Reporter, and myself. That's every one that was there besides the

petitioners; Chief Maddox was not there, neither was Robert L. Clark.

[fol. 268] Q. Now at that time I believe you said you couldn't see any marks or signs of violence on any of these four petitioners?

A. Not a one.

Q. Were you likewise present when they were arraigned in court?

A. Oh, yes.

Q. What was their appearance then?

A. Normal.

Q. You see any marks of violence on these four petitioners?

A. No, sir. I had a better opportunity to observe them at the time the confessions were taken, for the simple reason that Charlie Davis didn't have on a top shirt, you could see his whole shoulders; he had on this cutaway B. V. D. undershirt, and you could see his shoulders and arms and hands and his head. The others, some of them, had on shirts, I can't say at this time which one of these boys, but their heads were visible. In the court room, of course, they had on top shirts.

Q. Did you see any marks, scratches, bruises or abrasions of any character or description that was comparatively fresh on their heads, or on the body of Charlie Davis when that confession was given?

A. No fresh scars, no fresh marks of blood of any kind.

Q. Did you see any when he was arraigned in court?

A. No, sir.

Q. How about Jack Williamson, see any on him?

A. No, sir.

Q. At any one of these times?

A. No, sir.

Q. And how about Walter Woodward?

A. None on him.

Q. How about Izell Chambers?

A. None on him. There were some old scars on them that they have right now.

Q. And you say you had an opportunity at the time you took these confessions to examine them at that time?

A. I not only had the opportunity, but I did, Mr. Salisbury. I want to say one other thing while I am up here.

Mr. Catts: We object.

Mr. Maire: May I ask my own self a question and answer it?

The Court: I think you better answer questions. You may be recalled, if necessary.

[fol. 269] Cross-examination.

By Mr. Catts:

Q. Mr. Clark, were you over at the jail all night of Saturday night?

A. This is not Mr. Clark, but I wasn't there.

Q. Mr. Maire?

A. No, sir.

Q. You were not over to the jail on that particular Saturday night?

A. No, sir.

Q. The negro cook that served the sandwiches is mistaken?

A. Yes, if he says that I was there all night, he is mistaken.

Q. You heard him say that?

A. I think he said that.

Q. Were you over there at 11 o'clock that night?

A. No, sir.

Q. Mr. Helton is mistaken when he said in his opinion you were there at eleven o'clock?

A. Yes, sir.

Q. What time did you come to the jail the first time that night?

A. It was between 2 and 3 o'clock in the morning.

Q. How long did you stay then?

A. Not over an hour and half.

Q. You think you were there between 2 and 3 and stayed there an hour and a half?

A. Possibly between an hour and hour and a half. I will say I wasn't there over an hour and a half.

Q. When did you next come to the jail?

A. About 6:30 in the morning.

Q. The first time when you were in the office and Walter Woodward was in your office alone at 2:30, and you asked the officers to leave the room; which officers did you ask to leave the room?

A. Mr. Marshall and Mr. Helton.

Q. And who else?

A. Mr. Walter Clark may have been there.

Q. And did you see Captain Williams at that time?

A. Yes, Captain Williams was there.

Q. Was he down in your office?

A. Yes, sir.

Q. He was there again the next morning at 6.30 when you came back?

A. He was there.

[fol. 270] Q. You ask him to leave the room?

A. The first time—

Q. I am talking about the 2.30 occasion?

A. Yes, sir.

Q. You ask all the other officers to leave the room; you shut the door?

A. I can't say I shut the door.

Q. Were the officers within hearing of what you were saying to these men?

A. No, sir, they couldn't hear it.

Q. They couldn't hear what you said?

A. No, sir.

Q. How many times that night did you call up the County jail in connection with this investigation?

A. Not a single time.

Q. How many times were you called by the county jail that night?

A. Once over the phone, that was the first time I went, and the next time Mr. Goodrich came to my house and I went at 6.30 in the morning.

Q. Had you up to this time taken any part in this investigation before you were called at 2.30 that morning?

A. No, sir.

Q. That's the first you had, as State attorney, taken any action in this investigation when you were called at 2.30 in the morning?

A. I believe I had talked to this Mack Little prior to that time.

Q. Where did you talk to Mack Little?

A. In my office.

Q. In the County court house?

A. Yes, sir.

Q. Day time or night?

A. Day time.

Q. You recall any other party you talked to?

A. No, that's all.

Q. I believe you said you were State's attorney for the Twenty Second Judicial Circuit at that time?

A. Yes, sir.

Q. And when you dismissed these officers from your office about 2.30 in the morning, and had a conversation with Walter Woodward, you said you felt it was your duty to tell him it was also your duty to defend as well as to prosecute; you sure you told him that.

A. Absolutely.

Q. And you felt that in your mind and in your soul it was your duty to defend as well as prosecute?

A. Yes, sir, and I feel that way now.

[fol. 271] Q. And you told him at that time if he had been mistreated you would have him removed to some other jail by bringing it to the attention of the Circuit Judge?

A. Yes, sir.

Q. At that time were you familiar with the provisions of our constitution that prohibits a defendant charged with capital offense from giving testimony against himself? Were you familiar with that particular law on it?

A. Prohibiting him from doing it?

Q. Or prohibiting the officers from compelling or requiring him to give testimony against himself?

A. That's right.

Q. Were you at that time familiar with that provision of the law?

A. Yes, sir.

Q. Did you at that time tell him his rights in that respect?

A. I told him that he didn't have to make a statement at all with reference to it.

Q. Did you tell him that the constitution of this country gave him that right?

A. I didn't tell him the constitution did, I told him what the constitution said.

Q. What did you tell him?

A. I told him he didn't have to make any statement at all, that he didn't have to say one single solitary thing if he didn't want to; he couldn't be made to make a statement or testify in any manner.

Q. Did you tell these four boys this the next morning?

A. No, sir, I read the questions to them.

Q. Now were you still feeling the same duty to defend the next morning?

A. Yes, sir.

Q. Did you tell the boys at that time that the constitution gave them that protection?

A. I told them just this——

Q. (Question repeated.)

A. No, I didn't.

Q. Still you felt it was your duty to defend as State's attorney, the same in the morning at 6:30 and you did at 2 o'clock that night?

A. Yes, sir.

[fol. 272] Q. Are you familiar with the principle of law, and were you at that time familiar with the principle of law that prohibits the prolonged questioning of people charged with a capital offense, without rest, by officers of the law?

A. Oh, yes.

Q. Did you advise them of that at the time, of that right that they had in that respect?

A. I did not; there was nothing to indicate they hadn't had any rest.

Q. They were awake at 6:30?

A. Yes, sir, so was I.

Q. You had some sleep?

A. Yes, sir, three hours that night.

Q. And they were at least awake at 2:30?

A. Yes, sir, so was I.

Q. Was the fact that you were called over there at 2:30 and again at daylight that morning any indication that these boys had been kept up all night?

A. No, sir, it was not.

Q. That didn't suggest to your mind that these boys had been kept up all night?

A. No, sir, and doesn't yet.

Q. Doesn't yet?

A. No, sir.

(Witness excused.)

WALTER R. CLARK, being first duly sworn by the Clerk, testified on behalf of the State as follows:

Direct examination.

By Mr. Maire:

Q. Mr. Clark, what official position did you hold in Broward County on the 23rd day of May, 1933?

A. Sheriff of Broward County.

Q. Do you know the petitioners Izell Chambers, Jack Williamson, Charlie Davis and Walter Woodward?

A. I do.

Q. You know when Walter Woodward was placed in the Broward County jail in connection with the matter under consideration?

A. Yes, sir.

Q. You know what night it was?

A. It was Sunday night.

Q. How many times did you see Walter Woodward during the following week?

Q. I can't say how many times I saw him, I saw him [fol. 273] several times during that week, I don't know the exact amount of time.

Q. Would you say you saw him daily that week?

A. I have seen Walter Woodward during that week, yes; I don't know whether I saw him every day or not; I don't believe I did.

Q. At the time you did see him was anybody else present?

A. Some of the time, yes.

Q. All the time?

A. Not all the time, no, sir.

Q. Do you know whether or not Walter Woodward was continually beat, kicked, and bruised every night from May 13 until May 21, 1933?

A. He was not. In fact he wasn't questioned only one night, and that was Saturday night.

Q. Were you present in the Sheriff's office in Broward County on Saturday and Sunday night?

A. Yes, sir.

Q. Who else was present?

A. J. T. Williams, H. H. McNeal, A. D. Marshall, Mr. Helton was present part of the time, and Mr. Goodrich was present part of the time and Dick Goodrich was there part of the time.

Q. Did you say Mr. Helton?

A. He was there part of the time.

Q. Do you know whether or not you were present with J. T. Williams every time J. T. Williams questioned Walter Woodward or saw him in the jail?

A. Yes, sir.

Q. On the night of the 20th or 21st day of May, 1933, was Walter Woodward taken out by Captain J. T. Williams and placed upon a chair in a room where there were some

eight or nine men, some with pistols, others with black jacks and clubs, and loaded rubber hose?

A. No, sir.

Q. Who carried Walter Woodward from his cell to any other part of the building that night?

A. Mr. Marshall.

Q. Did some eight or nine men commence beating him?

A. No, sir.

Q. Did Captain Williams strike him on the jaw bringing blood in profusion?

A. He did not.

[fol. 274] Q. Did Walter Woodward say he was not guilty, and did somebody in the room say "we will make you talk"?

A. No, sir.

Q. Did you or anybody at that time in your presence abuse him, kicking him on the shin and hitting him over the shoulders and arms with a rubber hose?

A. No, sir.

Q. And trample on his bare feet?

A. No, sir.

Q. At any time that night, or any other time during the period of time he was in the Broward County jail?

A. No, we did not.

Q. Did you or anybody in your presence that night tie a grass rope around the neck of Walter Woodward, and tell him you would kill him if he didn't come clean and confess?

A. No, sir.

Q. Did you or any one in your presence tell Walter Woodward that he would be taken to the West Dixie Highway, and you or they would have a necktie party and riddle his body with bullets?

A. No, sir, not in my presence.

Q. Was Walter Woodward, at 10:30 taken back to his cell and locked up until about six o'clock Sunday morning, May 21, and then taken out of his cell and taken to your office, where a noose was again placed about his neck, and he was again kicked in the stomach and beaten even more violently than before, blows cutting deep gashes in his body and causing blood to run profusely over his clothing?

A. No, sir, he was not taken to my office on Saturday night at all.

Q. Did you at that time, or anybody in your presence, or any other time, tell him that he must make a complete con-

fession, that you were not fooling with him, and if he didn't come clean that they would take him out on the Dixie Highway and riddle his body with bullets?

A. No, sir, we did not.

Q. As a result of that did he consent to confess?

A. Not as a result of that.

Q. Were you present when he was brought to the office of myself as State's attorney to make a statement about what happened?

A. Yes, sir.

[fol. 275] Q. Were you present all night in the Broward County jail?

A. Yes, sir.

Q. On that particular night?

A. Yes, sir, I was.

Q. Did you at any time that entire night, strike, kick or beat Walter Woodward in any manner or form?

A. No, sir.

Q. Or did any of those in your presence?

A. No, sir.

Q. Did you, or any one in your presence at any time, from the time he was arrested and in the custody of the officers, ever hit, beat, kick or illtreat Walter Woodward?

A. No, sir, we did not.

Q. Have you or anybody that you know of, in your presence put a rope around his neck, threatened him, beat him, kick or ill-treated him in any way?

A. No, sir.

Q. Were you present that night when Charlie Davis was taken from his cell?

A. Yes, sir.

Q. Who took him from his cell?

A. Mr. Marshall.

Q. Was he taken to the sheriff's office?

A. No, sir, he was taken into Mr. Marshall's quarters where we were at.

Q. Was he seated in a chair and then knocked out of the chair against a brick wall in the room, knocked unconscious by one of the men there?

A. No, sir, he was not.

Q. Did the back of his head strike the wall cutting a deep gash, leaving him in a semi-conscious condition?

A. No, sir.

Q. Did you, or anybody in your presence, continue to beat him about the head, arms and shoulders with a rubber hose, and did any one in your presence pull out a gun and point it at him, have his finger on the trigger, and say he would shoot and kill him if he didn't confess to the murder of Mr. Darcey?

A. No, sir.

Q. Did Charlie Davis then say he would admit anything?

A. No, sir.

Q. Is it true that for a week prior to the date of the confessions, which was Sunday morning the 21st of May 1933, that Charlie Davis had been walked and questioned without sleep and beat every night in an effort to make him confess?

A. No, sir.

[fol. 276] Q. Did that happen every night after he was placed in your custody as sheriff, when you were present?

A. I wouldn't say he wasn't taken out of the cell to be questioned unless I was present.

Q. You know Jack Williamson?

A. Yes, sir.

Q. Is it true that during the entire week prior to May 20, 1933, Jack Williamson was walked back and forth from his cell to the sheriff's office and other parts of the jail, every night, sometimes all night, and told by Captain W. T. Williams and Bob Clark and Chief of Police Maddox that he would have to confess tonight to the crime with which he was charged?

A. No, sir. As a matter of fact Chief Maddox and Bob Clark was not there.

Q. What night were they not there?

A. Saturday night, the night they confessed.

Q. Was Virgil Wright present?

A. No, sir.

Q. Did Chief Maddox hit him twice over the head with a pistol?

A. No, sir.

Q. That night or any other time you know of?

A. No, sir.

Q. Did any one in your presence inflict punishment on Jack Williamson with black jacks and loaded rubber hose until they practically exhausted themselves?

A. No, sir.

Q. Did you or did anybody in your presence put a rope around the neck of Jack Williamson?

A. No, sir.

Q. And throw one end over some piping and draw him up and down by the neck, and the rope cut gashes in his neck?

A. No, we did not.

Q. Was there any piping arrangement there in the jail?

A. No, sir, it is a solid steel top, there isn't anything to throw any rope over.

Q. Did you throw it over any part of the cell?

A. No, sir, there wasn't any rope around his neck.

[fol. 277] Q. Did three men ever in your presence beat him with black jacks and loaded rubber hose?

A. No, sir.

Q. Did Captain J. T. Williams kick him about the body?

A. No, sir.

Q. Did Chief Maddox place a pistol against his neck and say "we will tell you what to say and you will say it"?

A. No, sir.

Q. Did Jack Williamson say he had nothing to do with the crime and beg them to cease beating and abusing him?

A. No, he didn't plead to us, he had no reason to plead to us.

Q. Was he again drawn up by a rope and unmercifully beaten?

A. No, sir.

Q. Was Jack Williamson told by you or anybody in your presence he would have to identify Charlie Davis?

A. No, sir.

Q. Did he deny he knew Charlie Davis, and then did Captain J. T. Williams knock him out of the chair and say "you will know him", and keep beating him until they said they knew each other?

A. No, sir.

Q. You know Izell Chambers?

A. Yes, sir.

Q. From May 13 until the morning of the 21st day of May, 1933, was Izell Chambers walked back and forth from one part of the jail to the other all night long in order to make him identify others in connection with the murder of Mr. Darcey?

A. Was that one night out of the whole week. He wasn't questioned only that Saturday night.

Q. On the night of May 20, 1933, was Izell Chambers brought from his cell to your office, seated in a chair in the

presence of some eight or nine men, one of whom was J. T. Williams?

A. No, sir, he wasn't carried to my office on Saturday night.

Q. Did Captain Williams at that time grab him by the throat and hit him a number of times in the face, causing blood to run from his eyes and nose?

A. No, sir.

Q. Did Captain Williams throw Izell Chambers in a chair while others stood around with pistols in their hands in a threatening manner?

A. No, sir.

[fol. 278] Q. Did Captain Williams say he would kill Izell Chambers unless he implicated others in this case?

A. No, sir.

Q. Did Captain Williams at that time tell Izell Chambers if he didn't say that Jack Williams was guilty, and he, Izell Chambers, with with him at the time, they would kill him?

A. No, sir.

Q. Did Captain Williams draw a gun and press it against the head of Izell Chambers and say if he didn't repeat his statement he would kill Izell Chambers, and throw him out of the window and swear he jumped out of the window and killed himself?

A. No, sir.

Q. On the morning of the 21st day of May, 1933, when a purported confession was taken in the living room of the jailer's quarters, was Chief Maddox present when that confession was taken?

A. No, sir.

Q. Was Virgin Wright present?

A. No, sir.

Q. Was Robert L. Clark present?

A. No, sir.

Q. Were the petitioners forced by Captain Williams, or by you, or any one in your presence to make a confession at that time?

A. No, sir.

Q. Did Captain J. T. Williams lay a stock over the lap of Charlie Davis, and did Chief Maddox put into Walter Woodward's hand a hammer with a string tied on the end and tell them that "this is the weapons they used to kill Mr. Darcey at Pompano with?"

A. No, sir.

Q. Did anybody direct any of these four petitioners what to say at that time, or any time prior to that time?

A. No, sir.

Q. Were they told to stick to their story when the State's attorney arrived to take their confessions?

A. No, sir.

Q. Were you present in the court room when these four petitioners were brought into the court room?

A. Yes, sir.

Q. Did you bring them into the court room yourself?

A. No, sir.

Q. Did Captain Williams?

A. No, sir, Captain Williams and myself were in the court room sitting down in a seat.

[fol. 279] Q. Who brought them in the court room?

A. Some of the deputies, I don't remember just which?

Q. Did you go to their cells prior to their arraignment and talk to them?

A. No, sir.

Q. Did Captain Williams?

A. No, sir.

Q. Was Captain Williams with you that morning?

A. Yes, sir.

Q. Did either one of you go there and talk to them before they were brought into the court?

A. No, sir.

Q. Did either one of you talk to them after they were brought into the court room?

A. No, sir.

Q. Did either one of you tell them that morning they had better stick to their story in the court room?

A. No, sir.

Q. Were you present in the court room when the petitioners were brought into court that morning?

A. No, sir.

Q. On the night of May 20th was Izell Chambers beat all night?

A. No, sir.

Q. Was he beat by Chief Maddox that night?

A. No, sir.

Q. By any one else?

A. No, sir.

Q. Did you ever see Captain J. T. Williams, or anybody, stomp on the bare feet of Walter Woodward?

A. No, sir.

Q. Did you see anybody hit Charlie Davis on the night of the 20th with a rubber hose?

A. No, sir.

Q. Or with a club or stick or hit him with their fist or kick him at any time?

A. No, sir.

Q. Were you present on the morning of the 21st day when their confessions were taken?

A. Yes, sir.

Q. You know whether or not they all had shirts on?

A. They didn't all have shirts on.

Q. You remember which ones didn't have?

A. I am not positive, but I believe Charlie Davis didn't have a shirt on.

Q. On the 21st day of May did you tell Jack Williamson if he didn't confess to this crime he would be lynched?

A. No, sir.

Q. Did any one in your presence tell him that?

A. No, sir.

[fol. 280] Q. At any time?

A. No, sir.

Q. At the time of the purported confessions taken on May 21, 1933, were there any signs of any bruises, blood or marks noticeable upon any exposed parts of the bodies of any of these petitioners?

A. No, sir, there was not.

Q. Have you yourself, or any deputy, or any citizen or any person you know of, at any time or any place ever abused, hit, kicked, struck with a rubber hose, put a rope around the neck or physically threatened or abused or injured or mis-treated any of these four petitioners at any time?

A. No, sir, they have not.

Q. After they were placed in the Broward County jail, before or since?

A. No, sir, not in my presence.

Q. Was Mr. Charles Gordon, Clerk of the Circuit Court, was he present at any time of the 21st of May?

A. No, sir, he was not.

Q. Was he present when their confessions were taken?

A. No, sir, he was not.

Q. Did you or Captain Williams, or anybody in your presence, ever do anything to prevent these petitioners from talking freely with their lawyers or counsel appointed in this case?

A. No, sir, we didn't keep them from talking freely at any time.

Q. Do you have any idea how many people you questioned the night of the 20th and the 21st day of May, 1933?

A. Saturday night?

Q. Yes, and Sunday morning.

A. We questioned six or eight or ten other men besides these four; there was quite a few we questioned besides these four.

Q. Would you say you questioned as many as six others, besides these petitioners?

A. Yes, sir.

Q. Did you grill or question these petitioners any more than you did the others that were questioned that night?

A. No, sir.

Q. What was the longest length of time you questioned any individual that night?

A. I would say thirty minutes.

[fol. 281] Q. Did you ever question at any one particular time any one of these petitioners longer than thirty minutes?

A. I don't think so. Some of the time we wouldn't question them more than fifteen minutes.

Q. What was the manner or method that you used in questioning them?

A. I asked them questions about where they were on this Saturday night and what they were doing; and they would give me some statement where they were at or what they were doing, and I would check on it and find it wasn't so; and ask them again and they would tell me a different story.

Q. Have you any idea what period of time would elapse between the time you questioned any one of these individual petitioners?

A. Sometimes be an hour and a half or two hours and a half, may be three hours.

Q. What was the longest total length of time you questioned any of these petitioners that whole night altogether?

A. The time we questioned them altogether?

Q. Yes.

A. Would be two hours and a half, not over three hours.

Q. And where were they between each time?

A. They were in their cells?

Q. Was there a bed in the cell?

A. Yes, sir, we have beds in all the cells.

Q. Was there anything that prevented any of them from sleeping?

A. No, sir.

Q. What about the week prior to the night these confessions were taken; how much questioning did you do of any one of these four petitioners during that week?

A. I questioned a lot of men we had in jail that week, and I believe that I questioned Izell Chambers and Jack Williamson part of that week, some of the time, may be three or four times during the week.

Q. What was the greatest length of time you ever questioned them?

A. Around thirty minutes.

Q. Did you ever force any of them, to walk, or beat or threaten them in any way prior to this night?

A. No, sir.

[fol. 282] Q. From what you have stated as to the length of time you questioned these four petitioners on the night of—

A. (interrupting) In answer to that last question, I questioned Charlie Davis one time before this Saturday night, that was the previous Saturday night they had him in the Pompano jail. Chief Maddox told me they had this Charlie Davis up in Pompano jail, and we went up there and questioned him. I don't expect it would be proper for me to tell why.

Q. Just tell what you did.

A. We went there and questioned him that night a few minutes in the jail up there, and Captain Williams says to me, he says, "I don't think that boy is guilty, I think he is crazy, I don't think he is guilty."

Q. Who says that?

A. Captain Williams. We went off, I didn't question him any more until Saturday night.

Q. You mean the Saturday night the confession was taken?

A. Yes, sir.

Q. You didn't then question him for a solid week?

A. No, sir.

Q. Did anybody question him in your presence?

A. Not in my presence, no, sir.

Q. What time did you start questioning any of the people—that you questioned the night the confession was taken?

A. We questioned them in the afternoon some time about four or five o'clock, may be a couple of hours, and went home and got some supper and come back about—I don't know exactly the time, I would say eight o'clock. I don't know whether seven or eight or eight-thirty.

Q. Mr. Clark, from the time you came back at 8.30 until midnight, had you questioned all four of these petitioners?

A. No, sir.

Q. What ones had you questioned?

A. I hadn't questioned Charlie Davis.

Q. Had you questioned the other three?

A. I questioned the other three.

Q. You didn't question Charlie Davis prior to midnight?

A. No, sir.

[fol. 283] Q. How many hours sleep did they have an opportunity to get that night?

A. They could have slept all the night, except I would say three hours, two hours and a half or three hours.

Q. What was the reason for bringing them out and having them returned to the cell, and then later bringing them out again?

A. Because I would question one of them, and he would tell me some story about where he was at on Saturday night, and put him back in the cell and check on that and find out that he wasn't there, he was telling me a lie about it, and then bring him out and would question him again, I tell him I checked on the last story he told me, tell him I checked on it, and he would tell me a different story about where he was at and what he was doing on Saturday night.

Q. You curse at him at that time?

A. No, sir.

Q. Anybody else curse him in your presence?

A. No, sir.

Q. Threaten him in any way?

A. No, sir.

Q. What was their manner in making their statement and answering your questions?

A. Just free and voluntarily, just like they are sitting there now, there wasn't anything exciting, they wasn't scared.

Q. Who always brought them down to you out of the cell into the room where they were questioned?

A. Mr. Marshall.

Q. Captain Williams ever go to the cell and bring any of them out?

A. Not that night.

Q. Did he ever go to the cell?

A. No, sir.

Q. Did you go to the cell?

A. That night?

Q. Yes.

A. No, sir.

Q. Did anybody stay in their cells for any great length of time when they went after them?

A. Didn't anybody go after them but Mr. Marshall, and he would be gone long enough to go to the cell and bring them out.

Q. Did you examine people that were in the jail all night long without any rest?

A. Anybody we had in jail all night without any rest?

[fol. 284] Q. I mean did you yourself, you or Captain Williams or A. D. Marshall, or any officers that were with you, examine somebody all night long, or did you not?

A. No, we stopped and ate something, and then later on in the night one of them confessed. You want me to tell the jury why this period of rest come in there?

Mr. Catts: Are you talking about Walter Woodward?

Witness: Yes, I am talking about any of them.

Q. What I want to get is, how long did any of the other officers rest without questioning anybody in the jail?

A. I would say an hour and a half, may be two hours.

Q. You know what time of night that was?

A. Some time in the morning, because I had been back to Pompano to see if they could find some money in a pocket-book they claimed—

Q. Don't go into anything like that.

Mr. Catts: We move to strike that testimony.

The Court: It may be stricken.

Q. What did you do while you were having that rest period?

A. Why I think I ate a sandwich and had a cup of coffee, and lay down and took a nap.

Q. Why did you rest at that time?

A. Because we wasn't questioning anybody.

Q. Was there any reason for not questioning at that time?

A. We were waiting for them people to get back from Pompano.

Q. Do you remember when I was there during the night?

A. Yes, sir.

Q. You know about how long it took to get through with Walter Woodward in my office the first time I went there that night?

A. I am not positive; I think it was less than an hour. I don't believe it was over an hour.

[fol. 285] Q. Did I stay there afterwards?

A. No, sir, you left.

Q. Do you know Prince Douglass, James Douglass?

A. Yes, sir.

Q. Was he there that night?

A. Yes, he was our cook in the jail.

Q. What was he doing?

A. He was serving us some sandwiches and coffee.

Q. Was he ever in the room while you were questioning anybody that night?

A. Yes, he would come in, sit down, and go back in the kitchen, and mess around between the questioning.

Q. Was anything done that night, either in the line of depriving these prisoners from sleeping, or threatening them or from beating, kicking, cursing or in any manner prevailing upon them to tell anything other than what they wanted to tell?

A. No, sir. The only time they were deprived of sleep was the time we were questioning them, and as far as beating and cursing them, there wasn't any beat and cursed.

Q. You were there every time they were questioned?

A. I was there every time they were questioned that night.

Cross-examination.

By Mr. Catts:

Q. How long have you been Sheriff of Broward County?

A. The last term—pretty nearly four years.

Q. You were Sheriff before that?

A. No, sir, Mr. Turner was Sheriff prior to this term.

Q. How many deputy sheriffs did you have during the month of May, 1933?

A. I had four mounted deputies.

Q. Did that include the jailer?

A. Yes, sir, four deputies, and Mrs. Freeman, she had the civil work. Robert Clark, Dick Goodrich, Virgil Wright and Mrs. Freeman.

Q. And the jailer?

A. Jailer Marshall, and myself.

Q. Mr. Maddox was chief of police at Pompano?

A. Yes.

Q. He was an officer of the law?

A. Yes.

Q. And Mr. Helton, who testified yesterday, he was constable?

A. Yes, sir, he was constable.

[fol. 286] Q. Who usually had charge of the investigations down there, or do you have any particular one who investigates homicides?

A. The most important ones I investigate them myself.

Q. Personally?

A. Yes, sir. May be some of the other men that know anything about it, or anybody in the County that knows anything about the case.

Q. Who is this Captain Williams?

A. He was captain of the convict camp west of Boynton.

Q. Did you ask him to come down there and assist you in this?

A. Yes, sir, I went up there and got him. I went to Mr. Marshall, he heard about this and he says to me—

Q. Don't tell that. Did you ask him to come down; he came down at your invitation?

A. Yes, sir, I went out there and got him and his bloodhounds.

Q. You are still not answering my question; it isn't responsive. I ask if it was at your invitation he came down—and he tells other things that are not responsive to the question. I move to strike the rest of his answer.

The Court: Denied.

Q. I asked you if it was at your invitation he came down?

A. Yes, sir.

Q. Did you ask him to stay down there all the week?

A. No, sir, he didn't stay down there all the week.

Q. You ask him to come down there the following Saturday night?

A. No, sir, I did not.

Q. Did you ask him at any time, after he came down the first night with the bloodhounds, that you have already told the jury about, to come back at any other time?

A. I don't remember whether I asked him to come down after the time he come down.

Q. I say, at any time did you ever ask him to come back after that first night?

A. I can't say positively whether I asked him to come back or not. He helped me with the case and was interested in it. I don't know whether I asked him or not.

[fol. 287] Q. You know whether he came down at any time when you wasn't at the jail or not?

A. I wouldn't say positively whether he did.

Q. Do you live at the jail?

A. No, sir, I live at home.

Q. I believe you say in your direct testimony here that only one of these boys—I believe you said Walter Woodward wasn't taken out and questioned during the week?

A. No, sir.

Q. Which one of them was taken out during the day time?

A. I believe Izell Chambers and Jack Williamson was taken out once or twice in the day time.

Q. Who was there when you took them out that time?

A. I don't remember who was there.

Q. Was Captain Williams there?

A. I wouldn't say positively whether he was there; he might have been there once.

Q. How many times were you around the jail that week, Sheriff?

A. I was in the office pretty nearly all the week.

Q. Were you there at night?

A. Not every night.

Q. Were you there on any night?

A. I was there Saturday night.

Q. Any night besides Saturday?

A. I wouldn't say positively; I expect I was.

Q. Why did you put off the questioning of all these thirty one or two people in the jail?

A. I don't know whether we had thirty or forty.

Q. Why did you put that examination off for a whole week?

A. I had been questioning them in the day time all the week.

Q. You hadn't questioned them at night before, had you?

A. No, sir.

Q. Why did you put it off?

A. We were questioning them during the week, and I was busy all day Saturday, I didn't question them until late in the afternoon.

Q. You didn't have time to question them all; did you?

Q. We had time to question them, but I didn't.

Q. Why didn't you?

A. Because I questioned them all day and I was tired.

[fol. 288] Q. Why didn't you question them Tuesday night?

A. I didn't want to.

Q. Why didn't you want to?

A. Well, I tell you, one of the reasons is because I worked all day Tuesday and I didn't feel like sitting up and questioning them Tuesday night.

Q. Why didn't you question them Wednesday?

A. I didn't question them Wednesday.

Q. Why didn't you question them Wednesday night?

A. I don't know the reason why I didn't question them Wednesday night.

Q. Well was there any reason why you didn't?

A. Well, because we were questioning these boys on Wednesday, every day during the week, the boys we had in jail, not particularly these, but some that we had in jail.

Q. Why didn't you question them Thursday night? The same reason as the other days, you were tired when night comes?

A. I suppose so.

Q. Were you busy all day Thursday questioning people in connection with this homicide?

A. Yes, sir.

Q. On Friday and Saturday?

A. I didn't question anybody on Saturday.

Q. Saturday morning was the only time that you didn't question some one?

A. Yes.

Q. Were all your officers, not only the officers, but anybody in the County that was working on the case, that whole week was devoted to questioning suspects who were in jail, and other people not in jail, in connection with this homicide, did you spend all the time you had?

A. All the time except to do some other official business, yes, sir.

Q. And the great majority of this time was devoted to this particular work?

A. A lot of time was.

Q. You not being there nights during this week, you can't swear to this jury that Captain Williams wasn't in the jail at night—I don't mean what somebody told you, but of your [fol. 289] own knowledge, are you sure that Captain Williams wasn't in the Broward County jail, questioning these boys during that week?

A. No, I can't be sure of it.

Q. Of your own knowledge do you know and can you say he was not?

A. If any night I wasn't there and he come there. I couldn't swear.

Q. You have testified you went to sleep every one of these nights?

A. I went to sleep at night.

Q. You weren't at the jail during these nights?

A. No, I sleep at home.

Q. You weren't around the jail?

A. I expect I was in my office the early part of the night.

Q. Do you know that you were; not guessing about these things?

A. No; I say I may have made a trip to Pompano.

Q. You went to Miami on one trip?

A. Yes, sir.

Q. When was that?

A. Tuesday or Wednesday; I am not positive.

Q. You swear it wasn't Monday?

A. I am not sure.

Q. As a matter of fact, it was Monday, eleven o'clock wasn't it?

A. It might have been; I am not positive. I was busy that whole week.

Q. Who did you take down there with you?

A. We took four or five negroes down there with us.

Q. Which one of these defendants, which one of these petitioners?

A. I believe we took Jack Williamson and Izell Chambers; I am not positive whether we took both or one of them.

Q. And you took two or three other prisoners down there?

A. Yes, sir.

Q. Why did you take them down there?

A. Because up there in Pompano, there was negroes up there in Pompano—

Q. Without going into that detail—

A. I have got to explain why.

Q. Were you afraid of mob violence?

[fol. 290] A. I wasn't afraid of it, no, sir, but I wanted to prevent anything—I wasn't afraid of it.

Q. Was it intimated there might be mob violence?

A. Yes, sir, there was talk around it might be.

Q. That was your chief reason for taking them to Miami jail at that time on Monday night?

A. Yes, I wanted to give protection to every prisoner we got in jail.

Q. Now if I gather by your testimony correctly, you and the rest of your office force, and others in Broward County, during the whole of this week were examining suspects and making investigation, particularly you and your office force, into this homicide, of all available time you had during the week, when you were not sleeping?

A. Yes, sir, not just exactly these boys we had, but in the community of Pompano, other people that live in Pompano.

Q. During that week were there confessions made by two other boys, Frank Manuel and Mack Little?

A. No, sir.

Q. You ever see anything in the paper about that?

A. I don't think so, I am not positive whether I have or not.

Q. You are pretty familiar with the case?

A. They didn't confess to me.

Q. Well, didn't the newspapers carry a story saying they confessed at that time?

A. I don't believe so.

Q. You never saw such a newspaper?

A. I couldn't say I had, no, sir.

Q. What time did you first see either of these petitioners on Saturday, May 20, 1933?

A. That was the night the confession was taken.

Q. That was on Saturday, the 20th, the day before Sunday?

A. I am not positive whether I went through the jail and saw any of them that day or not, but we started about four or five o'clock and questioned some of them.

Q. Who all were present when you first started?

[fol. 291] A. Mr. Williams.

Q. Captain Williams?

A. Captain Williams and Clyde Helton.

Q. That's the constable who testified yesterday?

A. Yes, sir, and Mr. Marshall, myself and another deputy. I can't say positively.

Q. Do you know where Captain Williams is now?

A. No, sir. I made a trip to Raiford to see if I could locate him.

Q. When was the last you heard of him?

A. I haven't heard from Mr. Williams after the summer this thing happened. I was talking to the superintendent the other day and he said he hadn't heard from Mr. Williams in two or three years, since they fired him.

Q. On that Saturday afternoon, about what time was it you started?

A. I wouldn't say positively, but I think around four or five o'clock, or between 3.30 and four, I don't remember.

Q. Where were you at that time, where were you questioning these boys?

A. Up in Mr. Marshall's living quarters.

Q. That's on the fourth floor of the jail?

A. Yes, sir.

Q. Who was the first person you brought in that Saturday afternoon and questioned?

A. I don't know I don't know who was the first one we brought in.

Q. You don't remember that?

A. No, sir. I couldn't tell you which was the first one brought in.

Q. Who was the second one brought in?

A. I couldn't tell.

Q. Who was the third one?

A. I couldn't tell you that.

Q. How long did you continue the questioning?

A. Hour and a half or two hours in the afternoon and went home to supper and come back later in the night.

Q. That's the same Mr. Helton that testified yesterday?

A. Yes, sir.

Q. You heard him testify?

A. Yes, sir.

Q. That's the same session you are testifying about that Mr. Helton testified about yesterday?

A. Yes, sir.

[fol. 292] Q. How many people would you say you brought in there and questioned from the time you began that afternoon until you adjourned to get something to eat and come back?

A. I would say three or four or five.

Q. Three or four or five?

A. May be I didn't question more than two or three, I couldn't say.

Q. You would have to question more than two or three. You said you didn't question any of them more than thirty minutes?

A. I don't know how long. I would sit down and question them, ask where they were that night and who they were with.

Q. Do you mean to tell this jury right now you can't tell them any particular length of time you kept one man in there from nine o'clock that night, or 9:45, who all you had in there and how long you had him there?

A. I said I questioned them among 30 or 35.

Q. As a matter of fact you don't know how many people you had in there and how much time you spent. Now, getting back to the question I was asking you; can you tell this court and jury now whether during that first session on Saturday afternoon you had two or three people in there, or you had four or five people in there?

A. I couldn't tell how many people I had in there.

Q. You don't remember whether your started at four and quit at six, or started at 4.30 and quit at six?

A. I don't know.

Q. And you don't know how long you kept any of these people in there?

A. I know I asked questions about where they were that night.

Q. But how long would you say you had been on the witness stand this morning?

A. I would say three quarters of an hour.

Q. That's your idea of how long you have been on the witness stand, and all of the questions he has asked you?

A. I didn't ask them as many questions as Mr. Maire did, I didn't ask them that many questions.

[fol. 293] Q. You don't know exactly what time you left to go to dinner than 6.30, I believe you say?

A. The best of my memory it was.

Q. You know about what time you come back?

A. I would say 8 or 8.30.

Q. Where did you go when you come back to the jail this time?

A. We come back to my office and went up to Mr. Marshall's living quarters.

Q. About what time did you go up to Mr. Marshall's living quarters?

A. I would say 8 or 8.30.

Q. You didn't delay in your office very long?

A. I don't remember whether there was anybody in the office to talk to me.

Q. You would say you went to Mr. Marshall's quarters around 8 or 8.30?

A. Somewhere around that time.

Q. How long did you stay in his quarters at that time and continue to question people?

A. We questioned them until in the morning some time.

Q. I mean without an adjournment, or without any one leaving the room, and while Captain Williams was in the room, how long did you continue to examine them at that time?

A. Well we questioned some of them a while, then I got up to get a drink of water, and sat around and talked some.

Q. Well how long did you continue; all night?

A. We questioned all night, off and on, except some time in the morning.

Q. You heard constable Helton say you took a recess about 12 o'clock?

A. Yes, sir.

Q. Is that right?

A. I think it was later than 12.

Q. Who was the first man you questioned after you came back to the jail?

A. I can't tell.

Q. Who was the second man?

A. I can't tell.

Q. Who was the third man?

A. I can't tell.

[fol. 294] Q. Who was the last man you questioned before the adjournment?

A. I don't remember which one of these three or four men.

Q. But you were questioning somebody practically all the time during that time until you took this little recess that Mr. Helton testified about?

A. Yes, sir, we might have stopped ten or fifteen minutes to talk it over amongst ourselves.

Q. You said a few minutes ago the time between the taking one out and bringing the other back would be the time it took the jailer to go to the cell and bring him back?

A. I believe Mr. Maire asked how long the jailer would be gone to the cell before he come back.

Q. How long would he be gone?

A. Long enough to take one man to his cell and come back.

Q. He didn't always bring somebody back with him?

A. No.

Q. Well did he most of the time bring somebody back with him?

A. Part of the time he did.

Q. Well did he most of the time bring somebody back with him?

A. Part of the time he did.

Q. If you didn't have anybody in there and you sent him out to bring somebody back, how long would it take?

A. If the man happened to be on the same floor it would take him two minutes, if he had to go on the lower floor it would take him five minutes, because he had to go on the elevator.

Q. Where were these boys at night; some of them on the first floor or third floor?

A. I couldn't say.

Q. You ever see these boys any time they were in the cell?

A. Yes, sir.

Q. Which cells did you see them?

A. I saw some of them in the bull pen.

Q. Which ones did you see in the bull pen?

A. All of them.

Q. When?

A. During the week.

Q. You say you saw these boys during the week?

A. Yes.

Q. Did you at any time see these four boys together in [fol. 295] the bull pen?

A. I can't say whether I did or not, but I had thirty or forty more.

Q. Who had charge of these men when they were in jail?

A. Mr. Marshall.

Q. You didn't have anything to do with them, did you, until that night?

A. Unless I ordered him to put them in a certain place.

Q. Where did you order him to put them in the morning?

A. When one of them confessed I ordered him kept away from the rest of them.

Q. Which one of the men?

A. Jack Williamson.

Q. That was Sunday morning?

A. Yes.

Q. Up to that time had you given him orders to keep any of them separate?

A. No.

Q. You don't know whether they were separated or not?

A. No, sir.

Q. Again I ask if you know whether they were separated or not?

A. I do not.

Q. If the boys say they were separated, you don't know whether that's true?

A. No, sir.

Q. If they both say the first time they saw each other was Sunday morning, you don't know whether that's true?

A. I don't know.

Q. If these boys say the only time they saw each other first was on Sunday morning; you know whether that's right or wrong. The only time they saw each other was the time they confessed, that was the first time they all four had been brought together on Sunday morning?

A. I couldn't say positively. Mr. Marshall can tell you. I don't know.

Q. You couldn't say that isn't true, could you?

A. I couldn't say whether it is true or not that's the first time they saw each other, because some of them might have been on one floor and some on the other.

Q. You heard the negro cook testify?

A. Yes, sir.

[fol. 296] Q. He has no interest in this case?

A. Not a bit.

Q. He was just a cook down there at the jail at the time. You haven't any jurisdiction over him, have you?

A. No. He is in Raiford now.

Q. You heard him say these were the only four boys you brought out there that night; you hear him say it?

A. I don't remember whether I did or not.

Q. You don't remember hearing him say that?

A. No, sir.

Q. Well, if he did say that he is mistaken?

A. Yes, sir, he is mistaken if he says that's the only ones we brought up.

Q. You heard me ask him if he gave any of these four boys a sandwich that night?

A. Yes, sir.

Q. You heard him say he was there all night except the time he would go down and get coffee and come back?

A. Yes, sir.

Q. You heard that part of his testimony?

A. Yes, sir.

Q. But you didn't hear him say that these four boys were the only ones that were brought up to this room in the jailer's quarters that night?

A. No, sir, I did not.

Q. Now, Sheriff, how many people did you have up there in the jail on the fourth floor in the jailer's quarters when you questioned them from about 1.30 on to daylight; how many persons did you have that you had under suspicion there from that time on?

A. From the time we did come back?

Q. From the time you did come back from recess until the confession was taken, how many persons that you had under suspicion did you have up there and question?

A. I expect we had six or eight, something like that.

Q. You heard Mr. Helton testify, did you, when he said yesterday that they only had these four boys, and the one he brought back from Pompano at the time he was there?

A. Later on in the morning.

Q. I am talking about the time from the time of the recess up until Mr. Maire got there?

[fol. 297] A: I think it was around three o'clock in the morning.

Q. Well, from that time on, I am talking about the time of the recess, did you have anybody else up there but these four boys and the boy he brought from Pompano that night?

A. I wouldn't say positively.

Q. You do know you had these boys?

A. We questioned them at different times.

Q. During that period of time, from the time you had the recess on until daylight, whatever time it was, but from the time you had the recess and went back to questioning, did

you have any other boys but these four and the one he brought from Pompano?

A. I wouldn't say positively whether we did or not. We might have questioned one or two more.

Q. You wouldn't swear that you did have anybody else?

A. I wouldn't swear.

Q. You do know you did have these boys there during this interim?

A. Yes, I questioned them. They had periods of rest from the questioning, after we questioned the others.

Mr. Catts: Move to strike his testimony on the ground it is the conclusion of this witness they had plenty of time to sleep.

The Court: That part is stricken. He is entitled to explain his answer. You may proceed.

Q. You heard Mr. Helton testify in this case?

A. Yes.

Q. That during the period he got back there, around 8.30 or 9 o'clock, and up to around 12 o'clock, that he knows they had at least each of these boys up there one time?

A. Yes, sir, we had them up there one time.

Q. You are sure you had them up there at least one time between 8.30 and the time of the recess?

A. You mean about—

Q. I am talking about 8.30 and the time you took the recess?

A. No; we didn't have each one of them up.

[fol. 298] Q. Mr. Helton is wrong about that?

A. He is wrong when he said we had each one of them four.

Q. Can you tell me now who all you did have up there?

A. We had Izell Chambers and Jack Williamson up there.

Q. Have anybody else up there that night?

A. Yes, we had several more.

Q. Who else between this particular period of time?

A. I don't remember the names of every one we questioned that night.

Q. Do you know the names of all the boys you had in jail?

A. No, sir, we had about thirty or forty.

Q. You know Frank Manuel?

A. Yes, sir.

Q. Did you have him in there during that period of time on that Saturday night?

A. I think we questioned him that Saturday.

Q. I don't ask you what you think; do you know it, do you have the same definite recollection as you do of these boys during that period of time?

A. No, sir, I do not.

Q. As a matter of fact you were questioning somebody during the whole of that night, except the times that you, eliminating the time you went to dinner and the time you took the recess, you were examining somebody under suspicion in connection with this case all during that period of time, until the next morning around six o'clock?

A. Except the time we took the recess, and went to dinner, and the time we sat there and talked the case over amongst ourselves, we didn't have anybody in there.

Q. Why did you take a recess, were you tired?

A. No, I wasn't particularly real tired, but I didn't have anything to do then.

Q. Did you or any one else sleep that night?

A. Yes, sir.

Q. You did go to sleep that night?

A. Yes, sir.

[fol. 299] Q. How long did you sleep?

A. I might have slept thirty minutes, and I might have slept an hour.

Q. Do you know what Captain Williams was doing while you were asleep?

A. I know where I sent him.

Q. You don't know what he did of your own knowledge while you were asleep?

A. No, I wasn't with him.

Q. You are sure you did take a nap that night there about an hour, Sheriff?

A. I would say an hour.

Q. Did you take a nap at all; you sure you did take a nap?

A. Yes, sir.

Q. Was this question asked you on the last hearing down there in this case in February of last year: "Now let's get back to this night of the 20th of May, Captain Williams was here with you that night as I understand it, Mr. Clark?"

(A.) Yes. (Q.) How long did he stay with you that night in jail? (A.) Stayed with me all night. (Q.) He was present I believe when these confessions were signed the next morning? (A.) Yes. (Q.) Why was it necessary for him to stay with you all night; you didn't sleep any that night,

did you? (A.) No, I was working that night?" Was that question asked and answer given?

A. It might have been, yes.

Q. Now if these niggers had fifteen or twenty minutes sleep, do you consider that sleep?

A. If they didn't have but fifteen or twenty minutes.

Q. If they had thirty minutes, would you consider that sleep?

A. No, sir.

Q. If they had an hour's sleep, would you consider that sleep and rest; do you consider that rest and sleep?

A. To get an hour's sleep, yes, sir.

Q. Who did the principal questioning of these boys there that night?

A. Mr. Williams and myself.

Q. What did you have Mr. Williams there for that night?

A. If you want me to explain how come him there, I will do so.

[fol. 300] Q. Well, did you have him there to help you that night?

A. He was interested in the case, and him and his wife was going to Miami that afternoon, and he said "you want to question the boys again today; I haven't got time today, I am busy" he says "I will take my wife to Miami and I will come back." Later on he came back, and Mr. McNeal drove his wife up to Boynton, and he stayed there with me, and Mr. McNeal came back later on; that's how come him there.

Q. Now at the time Mr. Maire came over there, you say Walter Woodward made some confession to him at that time?

A. I don't know whether he made a confession—he confessed something to him all right.

Q. Did he make a confession to you before that time?

A. Yes, sir.

Q. And you sent for Mr. Maire to come over and take it down?

A. Yes, sir.

Q. Was that confession false?

A. No, sir, it wasn't false.

Q. I mean by that, when Mr. Maire came over the first time?

A. No, it wasn't false; part of it was and part of it wasn't; Mr. Maire said there wasn't enough. It wasn't clear enough.

Q. And he wouldn't take that down. Was that voluntarily made at that time?

A. Yes, sir.

Q. It was voluntarily made that time?

A. Yes, sir.

Q. You didn't consider it sufficient?

A. Mr. Maire.

Q. Mr. Maire told you that it wasn't sufficient, so you kept on questioning him until the time you got him to make a free and voluntary confession of other matters that he hadn't included in the first?

A. No, sir, we questioned him there and we caught him in lies.

Q. Caught all of them telling lies?

A. Caught every one of them lying to us that night, yes, sir.

Q. Did you tell them they were lying?

A. Yes, sir.

Q. You told them they were lying?

A. Yes, sir.

[fol. 301] Q. Just how would you tell them that?

A. Just like I am talking to you.

Q. You said "Jack, you told me a lie"?

A. Yes, sir.

Q. You wasn't mad with him?

A. No, sir.

Q. That room up there on the fourth floor where you were questioning these witnesses that night, was there a radio and a bed or cot in that room?

A. Yes, that's Mr. Marshall's living quarters, he had a radio in there and had a living room suite in there, and I think a buffet, and in the next room was a couple of sleeping beds.

Redirect examination.

By Mr. Maire:

Q. Who has the keys to the Broward County jail?

A. Mr. Marshall, the jailer.

Q. Did you have any yourself?

A. I have some in the safe, locked in the safe.

Q. Did you at any time use your keys to go in the jail?

A. No, I kept them locked in the safe.

Q. Could Captain Williams, or anybody else, go in the jail without getting the keys?

A. No, sir, not to my knowledge.

Q. Why did you say you asked Captain Williams to come down?

A. I went up west of Boynton up there to get these blood hounds.

Q. Did you ask him to help you examine these boys?

A. Yes, sir.

Q. And was the reason he was there because you asked him?

A. Yes, sir.

Q. You testified now that you slept a few minutes the night these confessions were taken?

A. Yes, sir.

Q. Did you send Captain Williams anywhere while you were asleep?

A. Yes, sir.

Q. Do you know whether he left the jail at that time?

A. Yes, sir, he left before I went to sleep.

Q. Were you awake when he came back?

A. Yes, sir, because Mr. Marshall had to go downstairs [fol. 302] to get him, we had the elevator upstairs and he had to go down.

Q. Are you sure he was not in the jail at the time you were asleep these few minutes?

A. To my knowledge he wasn't in the jail.

(Witness excused.)

Recess five minutes.

A. D. MARSHALL, being first duly sworn by the Clerk, testified on behalf of the State as follows:

Direct examination.

By Mr. Maire:

Q. Mr. Marshall, did you hold any official position in Broward County in May, 1933?

A. I did.

Q. What was that official position?

A. Deputy Sheriff and jailer.

Q. Did you have charge of Broward County jail at that time?

A. Yes, sir.

Q. Were you present when each and every one of these four petitioners in this case were brought to the Broward County court house?

A. Yes, sir.

Q. After they were brought to the Broward County court house and placed in jail, were you present from them on whenever any of the other officers or any one other than the regular prisoners in the jail saw and talked to these four defendants, or any of them?

A. I was.

Q. How many sets of keys to the jail were there at that time?

A. Two.

Q. Was one set in your custody?

A. I had one set and the other was locked in the safe.

Q. Do you know whether or not you were present the morning of the 13th of May right on to the 21st of May, that whole week, whenever these petitioners, or any of [fol. 303] them were questioned by you or by anybody else?

A. Do I remember who was present?

Q. Were you always present?

A. I was always present, yes, sir.

Q. Do you know whether or not it is true that Walter Woodward was almost continuously beaten, kicked and bruised every night from the time he was arrested, May 13th, 1933, until May 21st, 1933?

A. He was not. He was not even questioned the first time, during that Saturday night, he wasn't questioned any during the week.

Q. On Saturday night, May 20, 1933?

A. It was on Saturday night, I don't remember the date.

Q. Was that the night the four petitioners were questioned by the Sheriff and you and Mr. J. T. Williams?

A. Yes, sir.

Q. Now on that Saturday night, was Walter Woodward taken by Captain J. T. Williams from his cell to the sheriff's office and placed in a chair in a room where there were some eight or nine men with pistols, black jacks, clubs and a loaded rubber hose?

A. Taken by Mr. Williams from the jail and placed in a chair?

Q. Yes, or anybody else?

A. No, sir.

Q. Where was he taken, if you know?

A. He was taken into a room and seated in a chair.

A. And who took him there?

A. I did.

Q. Were there eight or nine men with pistols and black jacks and loaded rubber hose there?

A. No, sir.

Q. Did Captain J. T. Williams ever take any of these four petitioners from their cells that night?

A. No, sir.

Q. Did any one other than you do that that night?

A. No, sir.

Q. When you took Walter Woodward to the living room of the jailer's quarters that night, who else was present besides yourself?

A. The Sheriff and Mr. Williams.

Q. Anybody else come there during the night?

A. Mr. Helton.

Q. Was Mr. Goodrich there at any time that night?

A. He was in and out until midnight.

[fol. 304] Q. Did anybody start beating Walter Woodward when he was taken into that room?

A. No.

Q. Did Captain Williams strike him in the jaw bringing forth blood in profusion?

A. No, sir.

Q. Did Captain Williams ask Walter Woodward if he wanted to talk that night?

A. How is that?

Q. Did Captain Williams ask Walter Woodward if he wanted to talk?

A. He might have asked him that.

Q. Then did Walter Woodward say he was not guilty of the crime, and then did some member of the party present with a vile oath say, "We will make you talk", and immediately again begin to abuse him, kicking him on the shin and beating him over the shoulders and arms with a rubber hose? And did that continue that night until about 10.30 when he was practically exhausted?

A. No, sir.

Q. At any time?

A. At any time.

Q. Or any other night?

A. Or any other night.

Q. Did you or anybody in your presence at that time tie a grass rope around the neck of Walter Woodward and tell him that he would be killed if he did not come clean, meaning to make a confession of the crime?

A. They did not.

Q. Did you or anybody else in your presence tell Walter Woodward that he would be taken to the West Dixie Highway and they would have a necktie party and riddle his body with bullets?

A. I did not.

Q. Was he then carried to his cell and remained there until six o'clock on the morning of May 21, 1933?

A. You mean after that happened?

Q. Yes, after 10.30?

A. No, sir.

Q. Was he taken out of his cell at any time after 10.30 and taken to the sheriff's office and a noose placed around his neck and then kicked in the stomach and beaten even more violently, blows cutting deep gashes into his body and causing blood to run profusely all over his clothing?

A. He was not taken to the sheriff's office any time during the questioning.

[fol. 305] Q. Was that done any place or any time, either that day or any other time?

A. It was not.

Q. Was he then told that he must make a complete confession and that they were not fooling him that time, they meant business, that if he did not come clean they would take him out and hang him on the Dixie Highway and riddle his body with bullets?

A. They did not.

Q. Were you present when he made a statement in my office?

A. Yes, sir.

Q. Is my office in the court house on the same floor that your quarters are?

A. One floor down.

Q. Was Walter Woodward at any time on the night of May 20 or 21st, or any other time, mistreated, beaten several times over the head with a pistol until he consented to confess to whatever they wanted?

A. No, sir.

Q. Did you see Charlie Davis at any time that night?

A. Yes, sir.

Q. Was he taken from his cell to the sheriff's office at about 9.30 P. M. on May 20th, 1933, and ordered to be seated, and immediately after he was seated in the sheriff's office was he knocked out of his chair against the brick wall of the room, knocking him senseless by one of the men there?

A. He was not taken to the sheriff's office. He was taken to that room, but this did not happen.

Q. Didn't happen there or any other place?

A. Or any other place.

Q. Or any other time?

A. Or any other time.

Q. Did the back of his head strike the wall cutting a deep gash causing great pain?

A. It did not.

Q. Was he then directed to confess the crime and was he continuously beaten about the head, arms and shoulders with a rubber hose, and did you or anybody present pull a pistol and point it towards him, having yours or their finger on the trigger, and saying that you or they would [fol. 306] shoot and kill him if he didn't confess to the crime?

A. Did not.

Q. Was he ordered to identify or implicate any of the other petitioners in the case by you or anybody in your presence?

A. He was not ordered to do that, no, sir.

Q. Had Charlie Davis been walked and questioned from his cell to the Sheriff's office without sleep and was he beat every night for a week prior to the time the confessions were obtained?

A. He was not.

Q. Were you present every time he was questioned?

A. I was.

Q. Was Jack Williamson during the entire week prior to May 20th, 1933, walked back and forth from his cell to the sheriff's office and other parts of the jail every night and sometimes all night?

A. He was not.

Q. Did that happen to either Charlie Davis or Jack Williamson at any time or any place?

A. It did not.

Q. Did Captain J. T. Williams or Bob Clark or Chief of Police Maddox ever tell him Jack Williamson that he would have to confess to the crime of murdering Robert Darcey, in your presence?

A. No, sir.

Q. Was Jack Williamson taken to the sheriff's office in the county jail and directed to be seated in a chair and did Chief Maddox hit him over the head with a pistol, inflicting deep cuts in his head?

A. He did not. Mr. Maddox was not there, or Bob Clark during the questioning, neither of them were present at any time during the questioning.

Q. Was Mr. Charles H. Gordon present at any time during that night?

A. He was not.

Q. At any time that night did blood run profusely down over the eyes and nose of Jack Williamson and his face and run all over his clothing?

A. It did not.

Q. Did you or anyone else in your presence proceed to inflict punishment with black jacks and rubber hose until they were all practically exhausted?

A. I did not.

[fol. 307] **Q.** And then did you or somebody else say "we can't make him confess this way, let's put the rope around his neck and carry him upstairs; and hang him?"

A. Did not.

Q. Is there an upstairs above your quarters on the fourth floor?

A. Couple of bedrooms up there.

Q. Did you or anybody else take Jack Williamson upstairs and place a rope around his neck and throw it over some piping arrangement about the cell and cause him to be drawn up and down, the rope cutting gashes in his neck?

A. Did not.

Q. Did three other men pull him up and some beat him with black jacks and rubber hose?

A. No, did not.

Q. Did Captain J. T. Williams beat him and kick him while he was on the floor?

A. No.

Q. Did Chief Maddox strike him or kick him and tell him he would have to say what he told him?

A. He did not.

Q. Did he or anyone else say "we will tell you what to say and you will say it"?

A. They did not.

Q. Did Jack Williamson beg you or any one in your presence to cease beating him and hanging him, and say that he had nothing to do with the crime charged against him, and did you or anyone in your presence say "let's give him some more and plenty of it"?

A. I did not.

Q. Was he again drawn up by the rope which had never been taken off his neck and by you or others there in your presence again unmercifully beaten while he was suspended in the air at the end of the rope, and then in a muffled or gurgling tone did he beg them to stop beating him?

A. Did not.

Q. Did they then let him down and did he then lying almost breathless and prostrated on the floor tell them, "before I will let you kill me, I will say what you want me to say."

A. He did not.

[fol. 308] Q. Did Captain Williams then say "that's all right, boys. I will tell him what I want him to say. I will take him over the story", and did he then say to Jack Williamson that "if you do not repeat what I tell you, I will let you have it again"?

A. Did not.

Q. Was Jack Williamson then taken to the sheriff's office and forced to identify Charlie Davis?

A. He was not.

Q. Was he then taken to the sheriff's office or any other place, and asked if he knew Charlie Davis?

A. No.

Q. Was he placed in a chair and asked that and when he said he did not know him, did Captain J. T. Williams then knock him out of the chair and say "you will know him", and keep beating him until he said that they knew each other?

A. Did not.

Q. You know Izell Chambers?

A. Know him when I see him.

Q. You remember about the time he was put in jail?

A. I was there.

Q. On May 14th, 1933, and continuously from that time until about the 21st day of May, 1933, was Izell Chambers walked back and forth from one part of the jail to the other all night long in an endeavor to make him identify others in connection with the murder of Mr. Darcey?

A. He was not.

Q. On the night of May 20, 1933, was Izell Chambers at any time brought from his cell to the office of the sheriff, seated in a chair, in the presence of some eight or nine men, and at that time did Captain J. T. Williams grab him by the throat using a violent oath and strike him a number of times in the face causing blood to run from his eyes and nose?

A. Did not.

Q. Did Captain Williams or any one else in your presence then with force and violence throw Izell Chambers into a chair while the others present stood around with pistols and clubs in their hands in a threatening attitude?

A. No.

Q. Did Captain Williams say he would kill Izell Chambers unless he implicated others in connection with said crime and also admitted that he was guilty of the charge against him?

A. No.

[fol. 309] **Q.** Did Captain J. T. Williams then tell Izell Chambers that if he did not say that Jack Williamson was guilty and that Izell Chambers was with him at the time they committed the crime that they would kill him?

A. Did not.

Q. And did he have a gun drawn and press it hard against Izell Chambers' head and say that if he did not repeat his statement he would kill him and throw him out of the window and swear that he jumped out and killed himself?

A. He did not.

Q. Were you present when the confessions were taken on the morning of May 21, 1933?

A. I was.

Q. Did Chief Maddox hand Jack Williamson, Charlie Davis and Izell Chambers each one a stick, one each of six sticks they had and tell them that they were the sticks that—

Mr. Catts: Object.

The Court: Objection sustained.

Q. Did Captain J. T. Williams use a vile oath and strike one of these petitioners and tell them "I will tell you what to say and you will say it"?

A. He did not.

Q. Did Walter Woodward then protest his innocence and would not say it, and was he then beat, kicked and made to admit anything?

A. He was not.

Q. Did you or any one present that time direct each one of the petitioners or defendants in that case that unless they stuck to the story they were instructed to tell, the punishment they had already administered to them during the night would again be administered and that they had better stick to the story upon the arrival of the State attorney that morning and the Court reporter?

A. Did not.

Q. Who brought these petitioners in the court room the morning they were arraigned?

A. I did.

Q. Were you the officer in charge of them immediately before that time?

A. I was.

[fol. 310] Q. Did Sheriff Clark or J. T. Williams the morning before they were arraigned go to the cell of these petitioners?

A. They did not.

Q. Did you have the keys at that time of the jail?

A. I did.

Q. Did you or any officers in your presence on the morning before they were arraigned or anybody else warn them that they had better stick to the confessions they had made on the night of May 20th, and did you or anybody in your presence dangle a large bunch of keys in front of their eyes and state to them that unless they did stick, said keys would be turned over to a crowd that night that would be on the outside waiting, and that they would be taken by the crowd and lynched?

A. No.

Q. Did Captain Williams go to the jail before they were brought into the court room and tell any of these petitioners that they were about to be called as a witness, and if they didn't stick to the story they had told them they would be killed?

A. They did not.

Q. Were you in charge of these petitioners when they were brought in the court room that morning?

A. I was.

Q. Did Captain Williams make a statement to any one of them in the court room that morning?

A. Not that I recall.

Q. Were you present all the time?

A. I was in the court room, yes, sir.

Q. At the time the confessions were taken were there any signs upon the visible parts of the bodies of any of these petitioners, any bruises or fresh scars, or was there any blood upon the clothing of any one of them or any marks around the neck of any of them?

A. There was not.

Q. Mr. Marshall, on the night of the 20th and 21st of May, or any time prior to that time, or any time subsequent to that time, at any time or any place, did you or Captain J. T. Williams or Sheriff Walter Clark, or any other living [fol. 311] human being in your presence, ever beat, bruise, hit with a loaded hose, tie a rope around the neck and threaten or abuse any single one or all of these petitioners?

A. Did not.

Q. Or direct them to say anything?

A. They did not at any time.

Q. What was the manner of these petitioners when they were being questioned by the officers?

A. They were fresh and all right, there was nothing, I didn't see any signs of fatigue.

Q. Did you see any fresh marks or scars or bruises upon the shoulders, heads or bodies of these petitioners?

A. No, sir. I see some signs of scars.

Q. Upon who?

A. Jack Williamson.

Q. When?

A. Right after he was put in jail.

Q. Do you know how long each individual one of these petitioners was questioned during the night of May 20 and 21?

A. I didn't time it, but I should judge anywhere from ten to twenty or twenty five minutes at a time.

Q. Have you any idea about how many times they were questioned during the night?

A. Well, we alternated; there was ten or twelve being questioned the same night.

Q. You mean ten or twelve including these petitioners?

A. Including these four.

Q. These petitioners were not the only ones questioned that night?

A. There were about six or eight others being questioned that night.

Q. What was the total amount of time you would estimate that these four petitioners were questioned that night, individually?

A. The total time?

Q. Yes, each one individually?

A. Each one individually?

Q. Yes?

A. It would be less than two hours.

Q. And where were they taken when they were not being questioned?

A. Taken to their cells, where they could rest and sleep.

Q. Who took them there?

A. I did.

Q. Did anybody else ever take them to or from their cell?

A. I did.

[fol. 312] Q. What was in their cell?

A. Bed and bunks they usually sleep in.

Q. What was in these then?

A. What was in the cells, you said?

Q. Yes?

A. There was bedding, just like there would be ordinarily.

Q. Did they have an opportunity to sleep that night?

A. Yes, sir.

Q. How long could each one of these petitioners have slept that night if they had wanted to?

A. You mean between intervals, or all told?

Q. All told?

A. They could have slept over half the night if they had cared to.

Q. Was anything done to prevent any of them from sleeping?

A. Nothing done.

Q. Was Mr. Maddox present that night?

A. Mr. Maddox wasn't there at any time.

Q. Was Mr. Robert Clark present?

A. Mr. Robert Clark wasn't there at any time during the questioning.

Cross-examination.

By Mr. Catts:

Q. Did I understand you, Mr. Marshall, to say that you would estimate that each of these petitioners were questioned for a period of less than two hours that night?

A. All told.

Q. You mean the whole four of them together, or each one of them?

A. Each one of them the way the questions were asked.

Q. And in your opinion then you would estimate each one of these boys was questioned for a period of less than two hours that night?

A. Approximately two hours.

Q. About two hours each of them were questioned?

A. Yes.

Q. And I believe you said that the length of the period of questioning ran from ten, fifteen or twenty-five minutes, in your estimation, of each of them at that time?

A. Yes, sir.

Q. That is now what you would estimate they were kept [fol. 313] out?

A. I didn't time it; it could have been less; I don't think it was any more.

Q. You give what your opinion is; I understand you to say you estimate ten or fifteen or twenty five minutes each to be kept out at a time; is that what your estimate is now?

A. That's what I stated, yes.

Q. What time on Saturday did this questioning start?

A. It started in the afternoon on Izell Chambers and Jack Williamson, along with some others.

Q. What time did the Sheriff and Mr. Williams first come to your quarters—your quarters is where the questioning was done?

A. Yes.

Q. What time did they first come to your quarters on Saturday afternoon?

A. Well I didn't exactly check the time. It was somewhere around four o'clock, might have been a little before or little after. I didn't check the time.

Q. Did Mr. Helton also come there with them at that time?

A. I don't recall.

Q. He was there in the early part of Saturday afternoon he was there during the period of around four o'clock?

A. He was there part of the time Saturday afternoon.

Q. Who was the first person or prisoner you had in jail in connection with this case that was taken up to your quarters on that Saturday afternoon to be questioned?

A. Which one was the first one?

Q. Yes.

A. You mean whether Izell Chambers or Jack Williamson?

Q. The first person you had in jail?

A. I don't recall the name of the person that I took in.

Q. Well how many people had gone up before, before you questioned one of these boys?

A. Well I couldn't give the time exactly either because I didn't pay so much attention to that.

Q. You would just go and bring whatever one they told you to bring back?

A. Whoever the sheriff asked me to bring, I would go and get him.

[fol. 314] Q. You do know Jack Williamson and Izell Chambers were brought in there some time during the afternoon, after four o'clock?

A. After around four o'clock, if I recall right they were questioned during the afternoon.

Q. How long did the sheriff keep any one, and whoever else was there, keep on questioning these boys that afternoon before they took an adjournment, or did it continue right straight on there all night?

A. They recessed around 5.30 or 6 o'clock, something like that, if I recall right.

Q. How many times did they take Izell Chambers in there between four o'clock when they started and the time when they adjourned around six?

A. I didn't count.

Q. Would you say as many as five times?

A. I wouldn't say.

Q. Three times?

A. I wouldn't even attempt to say.

Q. You know they did take him in there that afternoon?

A. Yes, sir.

Q. And the same thing is true of Jack Williamson?

A. Yes.

Q. You know you did take him in there that afternoon, but how many times you don't know?

A. No.

Q. Now, Mr. Marshall, what time did the Sheriff come back, and Mr. Williams?

A. I didn't check the time.

Q. What is your estimate?

A. It was after dark.

Q. Seven or eight o'clock?

A. I wouldn't attempt to name the hour.

Q. It was after dark?

A. Yes, sir.

Q. And when they came back did they go back up to your quarters again?

A. Yes, sir.

Q. That's on the fourth floor?

A. Yes, sir.

Q. Who all was up there that night?

A. The early part of the night there was—

Q. What officers?

A. Sheriff and me.

Q. The Sheriff was there.

A. Yes, sir, and Mr. Williams.

Q. Mr. Helton?

A. Mr. Helton come a little later.

Q. Mr. Goodrich up there?

A. He was not there at the time.

Q. He was around the jail that night, around the court house?

A. No, sir. He was after midnight.

[Vol. 315] Q. Wasn't he around the court house all night?

A. I don't know whether he was hanging around the court house yard; I wasn't down there.

Q. You didn't see him upstairs until after midnight?

A. No.

Q. You remember anybody else being up there besides you four, the Sheriff, Captain Williams, Mr. Helton and yourself?

A. There was one other man up there, he was a stranger to me, I don't recall his name.

Q. Was it McNeal?

A. Yes, sir.

Q. He was not an officer of the law?

A. No, not connected with the sheriff's office.

Q. He didn't take any part in the questioning?

A. No, the Sheriff did the most of the questioning anyway.

Q. Who was the first man brought up there that night, after you started bringing the prisoners back up there to be questioned, after they came back from supper?

A. I couldn't say because I didn't make any list of bringing them; first one and then the other, whichever one the Sheriff asked for I would go and get.

Q. You bring this Izell Chambers up there?

A. Yes.

Q. Did you bring Jack Williamson up there?

A. Yes.

Q. You bring Walter Woodward up there?

A. Not in the early part of the evening, no.

Q. Did you bring Charlie Davis up there?

A. Yes.

Q. You did bring three of them up there in the early part of the evening?

A. That was after I come back.

Q. You said some time after dark they came back into session?

A. Yes, sir.

Q. From that period, let's say, until midnight, did you bring Izell Chambers and Charlie Davis and Jack Williamson up into that room to be questioned?

A. Yes.

Q. And how many times?

A. I couldn't say how many times. It wasn't very often.

Q. Did you bring them more than one time during that period?

A. Before midnight, you mean?

[fol. 316] Q. Yes.

A. Yes, I think I had them more than once.

Q. You carried each one of them more than once?

A. Yes.

Q. From around about dark until midnight?

A. Yes.

Q. And on each of these occasions when you brought one of these petitioners here now, one of these three, between the time that you reconvened about dark until about midnight, into this room, all four of these officers were present and questioned these particular petitioners?

A. All four of them didn't do questioning.

Q. The Sheriff was doing the chief questioning?

A. Yes, sir.

Q. But if Captain Williams saw fit to ask a question, he asked it?

A. Yes, sir.

Q. And if you saw fit to ask a question, you asked it?

A. I didn't ask any questions.

Q. Did Mr. Helton ever ask any questions?

A. Not that I recall. He might have asked a few questions, but I don't recall.

Q. The ones that were questioning was the Sheriff and Captain Williams?

A. Yes, sir.

Q. And would you say you brought any of these boys up there as much as three times, or any of them up there as much as three times before midnight?

A. I imagine perhaps I did. We kind of divided some of the three over that time, and then we got the fourth one.

Q. You didn't ever have three of them up there before midnight at one time?

A. No.

Q. You had several times the three up there and during these times you had them up there you usually kept them about the same length of time, from ten to twenty five minutes?

A. Yes.

Q. And that went on up until midnight with three of these boys? When did you first bring Charlie Woodward up there?

A. You mean Charlie Woodward or Walter Woodward?

A. Walter Woodward, this boy here. Let me ask you this first. Which of these boys is this?

A. That's Izell Chambers.

[fol. 317] Q. This one?

A. Jack Williamson and that's Charlie Davis.

Q. Now you know you brought these three boys up there on several occasions, but you wouldn't say just how many times between dark and midnight; this boy here, Izell Chambers, and this boy Jack Williamson and this boy here, Charlie Davis; and you did bring these three boys up there for questioning on several occasions between the time of about dark until about midnight?

A. A few times; I wouldn't say several.

Q. Well as many as three?

A. I would imagine there was.

A. About three times each?

A. Yes.

Q. You know it was more than one time each?

A. Yes, more than one.

Q. Now when did you first bring Walter Woodward up to that room for questioning?

A. It was sometime about just after midnight, if I recall right.

Q. And how long did you keep him up there when he was first brought up?

A. I don't recall.

Q. Does it occur to you that you might have kept him longer than that that time?

A. I think we kept him a little longer.

Q. A little longer than you had been keeping any of the others up there?

A. Yes.

Q. Then after that time when you took him back to his cell, which one did you bring out?

A. I don't know which one.

Q. Now as a matter of fact from midnight, or from one o'clock to daylight, you didn't take any one up there to that room and question them other than these four boys, and the one other boy from Pompano, did you?

A. That's right.

Q. The rest of the night was devoted to questioning all of these boys?

A. Not all night.

Q. I mean while you were questioning?

A. They were the only ones that were questioned.

[fol. 318] Q. And one other boy that was brought down from Pompano were the only ones that the officers questioned from about midnight on to daylight; is that right?

A. They were the only ones that were questioned.

Q. When the questioning was going on?

A. When the questioning was going on.

Q. You did take a recess about midnight?

A. Took a recess later than that. I took a nap.

Q. They took a recess while they sent some officers back up to Pompano, or some place. What all happened about midnight to daylight. Tell the court and jury everything that happened between that time that you can remember now. I want the court and jury to know, because you were there, just everything that you remember that happened; what the officers did and what the boys did?

A. They were questioning them until they took a recess, and they put them all back in the cells for perhaps an hour and a half or two hours, that would be my estimate on the time; I didn't time it. I took a nap and I think the sheriff took a nap. I had the keys with me all the time.

Q. Let me ask you right there: in that same time that the sheriff took a nap and you took a nap, you both took a nap about the same time?

A. I went upstairs to the room, and he stayed in the living room.

Q. In that same time that Mr. Williams went out of the jail and came back shortly after you all woke up?

A. He left, I don't know where he went.

Q. He left the jail at the time while you were all taking this rest and came back later about the time you woke up?

A. When they all come back they got all four of these boys at the same time, brought them in one right behind the other, and set them in the living room in a chair side by side, and—

Q. Wait just a moment. Was that the time Mr. Maire came over there?

A. Yes, sir, Mr. Maire was there at that time.

[fol. 319] Q. It was daylight?

A. It was about six o'clock in the morning.

Q. Can you tell this jury here what happened right after you all had taken a nap and woke up?

A. They bring them all four in.

Q. That was the first thing you did after you woke up?

A. When they all got back, brought all four of them in.

Q. You brought all four of them together for the first time that night?

A. Yes, sir, all four; that's the first time all four of them had been together.

Q. And that was around about daylight at five or six o'clock in the morning, just before Mr. Maire came over?

A. They was sitting in that position when Mr. Maire came there, and each one of them had selected—

Mr. Catts: Move to strike the remark by the witness. I didn't ask him that. I was trying to identify the time.

The Court: Strike his answer except as to the time.

(Question repeated.)

A. Yes, I think that was the time Mr. Maire got in.

Q. Now, Mr. Marshall, what was the first thing that you did after you woke up that morning and they all had come back?

A. I waited for orders from the sheriff.

Q. And what orders were the first ones that he gave you about these petitioners, about bringing them forth, which ones did he order you to bring forth?

A. I don't recall the names of any one.

Q. Did he tell you to get all four of them?

A. If I remember right, I brought them in one at a time as I was told, until I got them one at a time.

Q. You did bring one at a time?

A. Until I got them all in there, yes, sir.

Q. They were in separate cells at the time, weren't they?

A. Yes, sir.

[fol. 320] Q. As a matter of fact these four boys had never been put in the same cell together while they were in jail up until that time; these four boys had never been put in any cell together from the time they were arrested until that very time right there when you put them together at that time on Sunday morning; that's the first time all four of them had been together?

A. Charlie Davis and Walter Woodward had been in a cell block together.

Q. They had been in the same cell block together?

A. Yes, sir, been in the same cell block together up until that night.

Q. But that night they were kept in separate cells?

A. One was put back in the cell block and the other was put in a separate cell on a different floor.

Q. Mr. Marshall, how many times would you say Walter Woodward was questioned between midnight, or shortly after midnight, when he was first brought in there, and six o'clock the next morning, by these officers?

A. I wouldn't attempt to say how many times because I never kept any account of it.

Q. You know during that period of time you did bring him out several times?

A. I wouldn't say several times; I believe two or three or four times.

Q. Could you have brought him out as many as six times?

A. I could, if he had ordered me.

Q. Could it be that you did?

A. I wouldn't say.

Q. You feel reasonably certain you did bring him out two, three or four times?

A. Yes, sir.

Q. You brought him more than once?

A. I brought him more than once.

Q. You know you brought him more than twice?

A. I couldn't say.

Q. You brought him in one time when Mr. Maire was there around 2:30, didn't you?

A. Somewhere about then.

Q. You brought Walter Woodward down to Mr. Maire's [fol. 321] office at that time, didn't you?

A. Yes.

Q. That was one time you brought him out.

A. I had him out two or three times, as often as they called for him.

Q. The first time you brought him out was the time you took him to Mr. Maire's office?

A. The first time?

Q. Yes.

A. I don't think that it was.

Q. You know how many times you did bring him out before you took him to Mr. Maire's office?

A. I do not. I didn't have any book and pencil to keep track.

Q. You need a book and pencil to keep track of when you took Walter Woodward out?

A. I would to remember it three years.

Q. After Mr. Maire left that morning, did you bring Walter Woodward up to be questioned again before officers in your quarters?

A. I don't recall that I did, Walter Woodward.

Q. I just want to get whether you brought him up there again after Mr. Maire was there?

A. If the sheriff said bring him, I brought him. I don't recall whether he did or not.

Q. You do know that no other person was questioned from around midnight until about six o'clock in the morning when Mr. Maire came over there, except these four boys and one other person who was brought down from Pompano?

A. That's the way I recall it, yes.

Q. Was Captain Williams present each time during the time when any of these boys were questioned?

A. You mean every time every one of them was questioned?

Q. Yes.

A. I think he was.

Q. And you were present each time?

A. I was present.

Q. And do you know whether Mr. Helton was present each time?

A. He was after he got there.

Q. After he first arrived there that night, which was shortly after the meeting started, he stayed there all the rest of the night?

A. No; he left and was gone about an hour after midnight, [fol. 322] just what time I don't know.

Q. Was this nigger cook of yours up in your quarters practically all night serving sandwiches?

A. No, not all night.

Q. Well, practically was he there all the time except when he would go back downstairs to get coffee and sandwiches?

A. His room was on the same floor.

Q. Was he there in your quarters ready to serve sandwiches, and see everything that happened?

A. He was not in the room all the time, but he was on the same floor.

Q. How long would you say Mr. Maire stayed over there that night?

A. An hour and a half perhaps.

Q. And how long did he keep Walter Woodward down in his office that night?

A. Not very long, I wouldn't say exactly how long.

Q. What was he doing that night when he was over there at the jail, when he wasn't talking to Walter Woodward?

A. What was he doing?

Q. Yes.

A. I don't know as he was doing anything particular.

Q. What were the rest of you doing?

A. Wasn't doing anything special at that time.

Q. Where were you, what part of the jail were you?

A. We were not in the jail. They were in my living room.

Q. On the fourth floor?

A. Yes, sir.

Q. That's where most of the questioning was going on?

A. Yes, sir.

Q. Now how long would you say he stayed in there—you didn't have any other prisoners when Mr. Maire was there, other than Walter Woodward, did you?

A. They might have, I don't recall.

Q. Have any of these other boys up there?

A. Could have, if the sheriff asked me to bring them, they were there.

[fol. 323] Q. I mean of your own knowledge, do you have any recollection of any of the rest of them being there in that room talking to Mr. Maire when he was there?

A. Not at that time, I don't know.

Q. Would you say that during the time that Mr. Maire was over there that he spent half of his time talking to Walter Woodward in the presence of officers, or by himself?

A. I wouldn't attempt to say.

Q. You don't know what portion of time he was talking to Walter Woodward that he was over there?

A. No.

Q. How many fire escapes do you have on the court house building?

A. I haven't got any as far as I know.

Q. Haven't got any fire escapes?

A. An elevator.

Q. Any back stairway?

A. Got two elevators and two stairways.

Q. Do you have any back stairway at all?

A. No.

Q. You couldn't get out of the jail except on the elevator or these stairs that go down by the elevator?

A. You can go down the stairway.

Q. The stairway at the elevator and the elevator is the only way to get out of the building?

A. Yes, sir.

Q. No other entrance to get out of the building?

A. Stairway and elevator.

Q. Any other stairway than the one near the elevator, is there any other stairway to any other part of the building?

A. Yes.

Q. Where is that?

A. Up through the front of the building.

Redirect examination.

By Mr. Maire:

Q. Is there any entrance into the jail where these prisoners were kept that anybody could get into unless they had the keys that were in your possession?

A. No, sir, they couldn't get to them.

[fol. 324] Recross-examination.

By Mr. Catts:

Q. Did anybody talk to any of these petitioners on the day that they were taken from the jail to the court room for arraignment?

A. Not in my presence.

Q. You were the one that carried them over there?

A. Yes.

Q. Did you have them handcuffed together?

A. I think they were handcuffed. I don't do that part of it. I would open the doors and let them out.

Q. Who helped you carry them over there?

A. I think the sheriff.

Q. Was Captain Williams there with you, too?

A. He was in the court room. I don't recall that he went to the jail when we went over there.

Q. Would you say he didn't help carry them over that morning?

A. No, I don't recall.

Q. You recall anybody talking to them, having any conversation with them from the jail on the way to the court room that day?

A. No, the entrance to the jail is not any further than from that window, right out the jail into the court room.

Q. Some of them were up on another floor?

A. We could bring them down on the elevator.

Q. And you then come down on the elevator with them alone.

A. Couple of deputies.

Q. I mean besides any of the officers you had there with you, did anybody else talk to them?

A. No.

Q. You sure the lawyers didn't talk to them on the elevator or somewhere between the jail and the court room?

A. They might have after we got in court from the elevator, only two or three steps into the court room.

Q. An attorney didn't talk to them in the corridor going from the jail that day to the court room, to any of them?

A. Not in jail, they might have on the walkway going down to the bar where the judge sits.

[fol. 325] Q. How long would it take to get these prisoners from where they were to the court room, after you took them out of the cell; how long did it take you?

A. I don't suppose it took over three or four minutes to get all four of them.

Q. And so far as you know, no one other than your officers spoke to them?

A. Their attorney might have met them after they got in the court room.

Q. Did any attorneys ever go in the jail to talk to them?

A. Yes, sir.

Q. When?

A. After the court appointed them.

Q. What day was that?

A. I couldn't tell you.

Q. How many times did he go in there?

A. I couldn't say that. I know they were on one or more.

Q. Let me ask you another question. Two of these boys during that week were carried from your jail to some place else by the sheriff; you know that?

A. Yes, sir.

Q. How long were they kept away before they were brought back to the jail?

A. Over night.

Q. Brought back some time the next day?

A. Next morning.

Q. Was the boy Izell Chambers, before the day of his trial, sent down to Dade County jail?

A. Izell Chambers and Jack Williamson.

Q. I mean was there any long period of time of a week or so—the period of time I am talking about is the period of time from this Sunday of the alleged confessions and the date on which Izell Chambers was tried, that he was incarcerated in the County jail in Dade County most of the time for a period of about two weeks?

A. I don't recall he was.

(Witness excused.)

State rests. Petitioners rest.

Testimony closed.

Recess to 1.45 P. M.

[fol. 326]

Afternoon Session³

1.45 o'clock

MOTION FOR INSTRUCTED VERDICT

Mr. Catts: The petitioners at this time desire to make a motion for an instructed verdict, your Honor.

Come now the petitioners, Izell Chambers, Walter Woodward, Jack Williamson and Charlie Davis, by their attorneys, and move the Court to instruct the jury in this case, the jury sworn in this case, to return a verdict in favor of the petitioners, and as grounds for said motion say:

First, the evidence in this case as presented to the court and jury by each of the petitioners and the following witnesses for the State of Florida, to wit: Sheriff Walter Clark, Jailer A. D. Marshall, Constable R. C. Helton, Deputy Sheriff W. C. Goodrich and the colored witness, Prince Douglas, who was cook at the jail, County jail of Broward County, on the night the alleged confessions were made, shows that the confessions were not the free and spontaneous expression of guilt, and were obtained from these petitioners while they were in the custody of the officers of the law and confined in the Broward County jail, after prolonged and persistent examination by the Sheriff of Broward County and the other officers acting in conjunction with him, and the convict Captain Williams, acting in conjunction with him, which prolonged and persistent examination was over a period from the time of the arrest of the petitioners on May 13th and 14th, 1933, throughout the entire period of that week, culminating in an all night session of questioning and cross questioning of these petitioners by the officers of the law, resulting in their confessions being obtained at 6.30 A. M. on May 21, 1933.

[fol. 327] Second. The undisputed evidence in this case on the part of the State of Florida and the petitioners shows that the confessions were not freely and voluntarily made.

Third. The evidence of the above mentioned officers, testifying on behalf of the State of Florida, and the petitioners, shows that the confessions were not the free and spontaneous confession of guilt.

Counsel for both parties, petitioners and respondent then argued the law and presented citations of authorities.

The Court: I agree with your law.

MOTION DENIED

After arguments by counsel on both sides the Court charged the jury as follows:

CHARGE TO JURY

Gentlemen of the Jury:

You have heard the evidence in the case. You have heard the argument of counsel. It now remains for the Court to give you the law to which you are to apply the facts as you find them from the evidence before you. You are here to decide questions of fact. The Court is here to decide questions of law. Counsel appear for both sides to aid in the presentation of this case in order that the jury and the Court may better carry on their duties under the law.

It would probably be best, if I briefly explained to you what has heretofore happened in this case. These four men, Isiah Chambers, Jack Williamson, Charlie Davis and Walter Woodward now designated petitioners, were indicted in the Circuit Court of Broward County, Florida, for murder in the first degree. Upon arraignment, three of these men pleaded guilty, and the fourth Isiah Chambers, after a trial upon his plea of not guilty, was found guilty by the jury of murder in the first degree. All defendants were adjudged guilty and sentenced by the Court.

During the trial certain confessions were admitted in evidence and received by the Court.

[fol. 328] These petitioners now contend in this particular proceeding, that certain facts were not then brought to the attention of the Court, and that had they been brought to the attention of the Court at that time, the result would have been different. Accordingly, these petitioners, who were the defendants originally, filed two assignments of error. They say, first, that the confessions and pleas filed at the trial of these petitioners and which form the basis of

the judgments and sentences herein complained of, were not in fact freely and voluntarily made by these petitioners, and, second that the confessions and pleas filed at the hearing of these petitioners and which formed the basis of the judgments and sentences complained of were in fact, obtained from these petitioners by force, coercion, fear of personal violence and under duress. Those are the two assignments of error presented by the petitioners, and having been denied and duly placed in issue by the State, create the issues of fact that you are called upon to decide by your verdict.

I have briefly explained the nature of these proceedings so that I may make it clear, first, that no question of the guilt or innocence of these defendants is involved in this matter now before you, and, second, so that you may understand why in this trial the burden of proof is placed upon these petitioners to establish to the reasonable satisfaction of the jury, by a preponderance of the evidence the truth of the facts alleged in at least one of the two assignments of error I have just explained to you, rather than any burden of proof upon the State.

Accordingly, if it has been established to your reasonable satisfaction by a preponderance of the evidence, that either one, or at least one, of these two assignments of error is true, then you will bring in a verdict for the petitioners. If it is not established to your reasonable satisfaction by [fol. 329] a preponderance of the evidence, that at least one of these two assignments of error is true in point of fact, then you will bring in a verdict for the State. Preponderance of the evidence means the probative weight, influence, force or power of the evidence as adduced, considered separately and collectively with reference to the issues in the case.

Now I desire to explain to you the law relating to your general responsibility as jurors and particularly the matters that you might properly take into consideration in passing upon the credibility of the testimony before you.

You are the sole judges of the evidence, the weight of the same, and the credibility of the witnesses who have testified before you. Where the testimony is conflicting it is your duty to reconcile it, if you can, upon the theory that such witnesses have sworn to the truth; but, if you cannot do so, then you are privileged to disregard so much or such parts

of it as you deem unworthy of credit and base your verdict on the testimony you believe to be true.

In the consideration of the testimony you should consider the manner of the witness on the witness stand, in the giving of the testimony; the bias or prejudice, if any, of the witness; the interest, if any, of the witness in the result of the testimony and the intelligence or otherwise of the witness, in order that you may judge of the correctness of his observation and his ability to detail to you correctly what he has observed. Also you should consider the reasonableness, or otherwise, of the testimony of the witness, as judged by your common-sense and every-day experience; also any conflict or discrepancy in the testimony of the different witnesses. In fact, gentlemen, it is your sole province to take into consideration all the surroundings of the witness bearing upon his credibility, or otherwise, in order that you may [fol. 330] properly weigh the testimony of such witness and arrive at the weight that you attach to his testimony. You must do this carefully, fairly and impartially, under your oaths as jurors impaneled to try this case,

If in the consideration of the testimony of any particular witness, as judged by the rules above stated, you believe it is untrue, you have the right to ignore it in making up your verdict.

(Petitioners requested charges given.)

The Court further charges you, that if any or all of the evidence in this case establishes to the reasonable satisfaction of the jury that such confessions were not freely and voluntarily made and were not the spontaneous expressions by these petitioners of their own guilt whether such conviction on your part arises from any striking, beating, intimidation, threats or prolonged questioning without sleep or rest brought about on the part of the officers of the law or any person acting in conjunction with such officers, then it would be your duty to find for the petitioners.

You are further instructed that a confession to be admissible in evidence against a defendant must be freely and voluntarily made and must be the spontaneous expression of such person of their own guilt and if the evidence in this case establishes to your reasonable satisfaction that on account of any conduct on the part of the officers of the law or any person acting in conjunction with them such confessions were not so freely and voluntarily made and were not

the spontaneous expression by these petitioners of their own guilt, then it would be your duty to find for the petitioners.

In this case, gentlemen of the jury, you are not to consider the guilt or innocence of these petitioners of the charge for which they stand convicted as that question is not now in issue. Your sole duty in this case is to determine from the evidence the issues raised by the pleadings. [fol. 331] The petitioners in their assignments of error put in issue two questions, the first of which is as follows:

"That the confessions and pleas, filed at the trial of these petitioners and which formed the basis of the judgments and sentences herein complained of, were not in fact freely and voluntarily made by these petitioners;" and the second of which is as follows:

"That the confessions and pleas filed at the trial of these petitioners and which formed the basis of the judgments and sentences herein complained of were, in fact obtained from these petitioners by force, coercion, fear of personal violence and under duress," to each of which the State of Florida has joined issue, therefore, you are only to consider in making up your verdict the issues thus raised and you are not to be swayed from the performance of that duty by any knowledge you have gained from the evidence as to the guilt or innocence as to the charge contained in the indictment.

If the evidence in this case establishes to your reasonable satisfaction by a preponderance of the evidence that the confessions in this case were made while petitioners were in the custody of the officers of the law after prolonged and persisting examination by the officers of the law of persons acting in conjunction with them and thus were not the spontaneous expression by these petitioners of their own guilt, then it would be your duty to find for the petitioners.

A plea of guilty should be entirely voluntary by one competent to know its consequences, and should not be induced by fear, misapprehension, persuasion, promises, inadvertance or ignorance.

The plea of guilty to a serious criminal charge should be freely and voluntarily made and entered by the accused without a semblance of coercion, and without fear or duress of any kind.

[fol. 332] The Court instructs you that a fair and impartial trial is absolutely essential to the due and proper ad-

ministration of justice, and it is of prime importance that this truth be constantly borne in mind by both courts and juries. If the courts are to retain the respect and the confidence of the people, and properly perform the important duties and exercise the great powers invested in them by the Constitution, in accordance with its spirit and purpose, and carry out and perform the objects of their creation, they must obey the constitutional command respecting fair and impartial trials, and give to every case submitted to them for decision, due, careful and conscientious consideration, basing their judgment upon sworn, legal and credible evidence, uninfluenced by other extraneous considerations. In the administration of justice, juries are entrusted with functions of supreme importance. They consider and weigh the evidence submitted, determine the credibility of witnesses, and find from the evidence the facts upon which the Court passes its judgment. In deliberating upon and endeavoring to reach a correct and conscientious verdict, the jurors are required by the law to be guided by the sworn evidence in the case and to calmly and dispassionately weigh and consider it, uninfluenced by anything not based entirely and exclusively upon such evidence.

As you are aware, gentlemen, this case is a matter of considerable importance to these petitioners and to the State. All parties to this cause are entitled to your very thorough, careful and conscientious consideration of it. Necessarily it is a matter which should be considered in the light of absolute fairness to both parties to the end that your verdict shall be based upon an impartial and dispassionate consideration of the evidence presented to you, and based upon no extraneous factors or consideration. In other words, [fol. 333] gentlemen, I ask that you follow the law I have endeavored to explain to you, and bring in such a verdict as your enlightened consciences may direct you to bring in, based exclusively upon the testimony that has been presented to you.

If the allegations of either one of these two assignments of error have been established to your reasonable satisfaction by a preponderance of the evidence to be true, as to any one or more, but not all of the petitioners, then the proper form of your verdict would be: "We, the jury, find for the petitioner — — (naming him or them as the case may be) and against the State of Florida; and we further find against the petitioner — — (naming him or

them as the case may be) and for the State of Florida. So say we all."

This form that I have just read you would be appropriate if your finding differed as to different defendants. Should the truth of the facts alleged in at least one of the assignments be established to your reasonable satisfaction by a preponderance of the evidence to be true as to all of the defendants, then the form of your verdict should be: "We, the jury, find in favor of the petitioners, Isiah Chambers, Jack Williamson, Charlie Davis and Walter Woodward, and against the State of Florida. So say we all."

If the truth of the facts alleged in neither one of the assignments of error has been established to your reasonable satisfaction by a preponderance of the evidence to be true, as to any of the petitioners, then the form of your verdict would be: "We, the jury find against the petitioners, Isiah Chambers, Jack Williamson, Charlie Davis and Walter Woodward, and in favor of the State of Florida. So say we all."

I will send you drafts of these forms, one of which may be proper, when duly made out.

[fol. 334] Gentlemen, your first duty upon retiring will be the selection of one of your number as foreman. He will preside over your deliberations and sign your verdict, when and if you arrive at one. Of course, in order that you may bring in a verdict, it is necessary that your findings be concurred in by each of you. That is to say, a verdict, before it can be brought into court as such, must be by your unanimous vote.

You may retire, gentlemen, to the consideration of your verdict.

(Jury retire.)

OBJECTIONS TO COURT'S CHARGE

Mr. Catts: The petitioners Isiah Chambers, Jack Williamson, Charlie Davis and Walter Woodward object to the Court not giving to the jury instructions Numbers 1, 2, 3, 4, 6 and 10 as requested by the petitioners; and the petitioners object to the Court's instruction to the jury to the effect that it is necessary for the petitioners to establish to the reasonable satisfaction of the jury the truth of every one or both of the assignments of error by a preponderance of the evidence; and object to the Court's instruction to the

jury that the burden in this case was upon the petitioners to establish to the reasonable satisfaction of the jury by a preponderance of the evidence in all cases in which the words "preponderance of evidence" were used in the charge of the Court.

[fol. 335] Reporter's certificate to foregoing transcript omitted in printing.

[fol. 336] PETITIONER'S REQUESTED CHARGES (DENIED)

Instruction No. 1

Gentlemen of the jury you are instructed as a matter of law, that no person charged with a crime shall be compelled to testify against himself, and where a person is charged with a serious criminal offense makes a confession out of court, said confession is without weight unless it was entirely free and voluntary. So if you find from the evidence in this case that these petitioners made a confession of guilt of the crime charged against them on or about May 21st, 1933 and that said confession was made through fear of physical punishment, ignorance, inadvertence, intimidation, your verdict should be for the petitioners for the law will not permit a confession to be introduced in evidence unless it was made entirely free and voluntarily and without a semblance of coercion of any kind.

Instruction No. 2


If you believe from the evidence in this case that one, Captain J. T. Williams was permitted to enter the jail where these petitioners were prisoners on May 20th, 1933 and threaten them with violence and harass them by keeping them awake at night and moving them about in the jail from one place to another until they were faint and weary in body and spirit for the purpose of obtaining a confession from them to be used against them, you should find that said confessions were not made entirely free and voluntary, and your verdict should be for the petitioners.

[fol. 337]

Instruction No. 3

If the evidence in this case establishes to the reasonable satisfaction of the jury that the alleged confessions were

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not the spontaneous expressions by these petitioners of their own guilt, it would be your duty to find in favor of the petitioners.

Instruction No. 4

If the evidence in this case establishes to the reasonable satisfaction of the jury that the confessions were not freely and voluntarily made, then it would be your duty to find for the petitioners.

Instruction No. 6

The Court instructs you that the burden of the proof in this case is upon the petitioners to establish to your reasonable satisfaction the truth of the facts alleged in at least one of their assignments of error, however, if you believe from the evidence or any portion thereof which you do believe to your reasonable satisfaction that the confessions of the petitioners or any one of them, or the plea of guilty were not freely and voluntarily made on account of any fear, duress, intimidation, threats, beating or mistreatment toward the petitioners by any officers of the law or any person acting in conjunction with the officers of the law or if [fol. 338] you believe to your reasonable satisfaction that on account of lack of sleep and rest from prolonged questioning of the petitioners by the officers of the law or any person acting in conjunction with the officers of the law the confessions or the plea of guilty were not freely and voluntarily made, then it would be your duty to find for the petitioners.

Instruction No. 10

Under the first count of the petitioners' assignments of error and the issues raised thereon as explained to the jury, if the evidence establishes to your reasonable satisfaction that the confessions were not freely and voluntarily made on account of any conduct on the part of the officers of the law or any person acting in conjunction therewith or apparently acting in conjunction therewith which such conduct caused the petitioners to be in such physical and mental condition that the confessions so made by them were not the free and spontaneous expression by each petitioner of his own guilt, then it would be your duty to find for the petitioner.

[fol. 339] The said cause having been submitted to the jury by the Court under it's charges, and the jury having rendered a verdict for the respondent against the petitioners, the petitioners, on the 15th day of October, A. D. 1936 at the term of Court aforesaid, made and submitted to the Court the following motion for a new trial:

IN CIRCUIT COURT OF PALM BEACH COUNTY

[Title omitted]

MOTION FOR NEW TRIAL—Oct. 15, 1936

Comes now each of the above named petitioners by their attorneys, Sidney J. Catts, Jr. and John Ziegler, and respectfully move the Court to set aside the verdict rendered by the jury in this cause and entered herein and grant unto each of the petitioners a new trial and as grounds for new trial says:

1. The verdict is contrary to the instructions of the Court.
2. The verdict is contrary to the evidence.
3. The verdict is contrary to the evidence and instructions of the Court.

4. The verdict is contrary to law.

[fol. 340] 5. The Court erred in denying and overruling petitioners' motion for instructed verdict.

6. The Court erred in refusing to give petitioners' requested charges Nos. 1, 2, 3, 4, 6 and 10.

7. The Court erred in instructing the jury that "the burden of proof in this case was upon the petitioners to establish to the reasonable satisfaction of the jury by a preponderance of the evidence" the truth of either of their assignments of error.

8. The Court erred in over-ruling petitioners' objections to the State referring in its questioning of its witnesses to "the time Mr. Darsey was robbed and murdered."

9. The Court erred in over-ruling the petitioners' objections to the State's Attorney propounding questions to each of the State's witnesses to-wit: Walter Clark, A. D. Marshall, Constable R. C. Helton and others which questions

were read by the State's Attorney to such witnesses and which questions pertained to different forms of mistreatment by the officers toward the petitioners and *elicited* from such witnesses answers of yes or no.

10. The Court erred in his charge to the jury as contained in the second paragraph of his written instructions in using the words "*For Murder in the First Degree*" after the words "These four men, Isiah Chambers, Jack Williamson, Charlie Davis and Walter Woodward now designated petitioners, were indicted in the Circuit Court of Broward County, Florida."

11. The Court erred in his charge to the jury as contained in the second paragraph of his written instructions in using [fol. 341] the words "*of Murder in the First Degree*" after the words "Upon arraignment, three of these men pleaded guilty, and the fourth Isiah Chambers, after a trial upon his plea of not guilty, was found guilty by the jury."

12. The Court erred in his charge to the jury as contained in the second paragraph of his written instructions in using the words "Upon Arraignment, three of these men pleaded guilty" notwithstanding the record and evidence before the jury showed upon arraignment only two of these men plead guilty and two plead not guilty; the plea of not guilty by Charlie Davis as disclosed by the record was later withdrawn on to-wit: June 12, 1933, the same day on which the fourth petitioner, Isiah Chambers, was tried by a jury.

13. The Court erred in giving the following instructions to the jury:

"I have briefly explained the nature of these proceedings so that I may make it clear, first that no question of the guilt or innocence of these defendants is involved in this matter now before you, and, second, so that you may understand why in this trial the burden of proof is placed upon these petitioners to establish to the reasonable satisfaction of the jury, *by a preponderance of the evidence* the truth of the facts alleged in at least one of the two assignments of error I have just explained to you, rather than any burden of proof upon the State.

Accordingly, *if* it has been established to your reasonable satisfaction *by a preponderance of the evidence*, that either

one, or at least one, of these two assignments of error is true, then you will bring in a verdict for the petitioners. If it is not established to your reasonable satisfaction *by a preponderance of the evidence*, that at least one of these two assignments of error is true in point of fact, then you will bring in a verdict for the State. Preponderance of the evidence means the probative weight, influence, force or power [fol. 342] of the evidence as adduced, considered separately and collectively with reference to the issues in the case."

14. The Court erred in allowing in evidence any reference to the substantive crime charged in the indictment by the State of Florida and erred in instructing the jury in any way or by any reference to the substantive crime charged in the indictment.

15. The Court erred in its failure to instruct the jury that a verdict in favor of the petitioners would not release such petitioners from the charge as contained in the indictment.

The italics contained in paragraphs ten, eleven and thirteen are by counsel for petitioners.

(Signed). Sidney J. Catts, Jr., John Ziegler, S. D. McGill, Attorneys for Petitioners.

[fol. 343] On the 17th day of October, A. D. 1936, the Petitioners, by leave of the Court, filed and submitted to the court the following amendment to their original motion for a new trial:

IN CIRCUIT COURT OF PALM BEACH COUNTY

[Title omitted]

AMENDMENT TO MOTION FOR NEW TRIAL—Filed October 17, 1936

Comes now each of the above named petitioners by their undersigned attorneys and presents and files this amendment to their original motion for a new trial previously presented and filed in this cause and move the Court to set aside the verdict rendered by the jury in this cause and

grant unto each of the petitioners a new trial on the following grounds:

It affirmatively appears from the evidence and from the record in the proceedings which form the basis of the judgments and sentences of death upon the petitioners in this case that the petitioners and each of them were denied due process of law and the equal protection of the law in violation of the Fourteenth Amendment to the Constitution of the United States, as follows:

[fol. 344] (a) That they were not given a fair and impartial trial and deliberate trial.

(b) That they were denied the right of counsel with the accustomed incidents of consultation and of preparation for trial, as provided by law.

(Signed) Sidney J. Catts, Jr., John Ziegler, S. D. McGill, Attorneys for Petitioners.

IN CIRCUIT COURT OF PALM BEACH COUNTY

[Title omitted]

ORDER OVERRULING MOTION FOR NEW TRIAL—November 14, 1936

This cause came on to be heard in open court in the presence of the petitioners and their counsel and was duly presented by counsel for the petitioners and the State, upon petitioners' motion for a new trial as amended. The Court duly considered the matter.

It is the view of this Court that no useful purpose would be served by making a detailed statement of findings and conclusions upon the questions of fact and law presented in the motion for a new trial. Suffice to say, it is the conclusion of this Court that the credible evidence fails to disclose that the confessions and pleas of petitioners—who were only four men out of a large number questioned—were not in fact freely and voluntarily made by these petitioners, and fails to show that they were in fact obtained from these petitioners by force, coercion, fear of personal violence or under duress. Thereupon;

It is Ordered and Adjudged that the motion for a new trial, as amended, be and the same is hereby denied.

Done and Ordered at West Palm Beach, Florida, this 14th day of November, A. D. 1936.

(Signed) C. E. Chillingworth, Judge.

[fol. 346] IN CIRCUIT COURT OF PALM BEACH COUNTY

[Title omitted]

MOTION TO EXTEND TIME FOR FILING BILL OF EXCEPTIONS—
Filed December 2, 1936

Now come Isiah (Izell) Chambers, Jack Williamson, Charlie Davis and Walter Woodward (Woodard), petitioners in the above entitled cause, by and through their undersigned attorneys, and move and ask the Court for a special order extending the time in which they may file and present their bill of exceptions in said cause and move that said time be extended for a period of sixty (60) days from date of said order.

(Signed) Sidney J. Catts, Jr., John Ziegler, S. D. McGill, Attorneys for Petitioners.

Notice of hearing on this motion is hereby waived.

(Signed) J. W. Salisbury, State Attorney.

[fol. 347] IN CIRCUIT COURT OF PALM BEACH COUNTY

[Title omitted]

SPECIAL ORDER EXTENDING TIME FOR PRESENTING AND FILING
BILL OF EXCEPTIONS

This cause coming on to be heard upon motion of petitioners to extend the time in which to present and file their bill of exceptions in said cause and it appearing that notice having been waived by the State of the presentation of said motion.

It is therefore ordered and adjudged that the said petitioners, Isiah (Izell) Chambers, Jack Williamson, Charlie Davis and Walter Woodward (Woodard) be and they are,

jointly and severally, hereby allowed sixty (60) days from this day within which to make up, present and have filed their bill of exceptions in said cause. Let this order be entered in the minutes of this Court.

Done and ordered at West Palm Beach, Florida this 2nd day of December, A. D. 1936.

(Signed) C. E. Chillingworth, Circuit Judge.

[fol. 348] On the 18th day of January, A. D. 1937 at the term aforesaid the petitioners filed the following assignment of errors with the bill of exceptions which was presented to the Judge of this Court on the 19th day of January, A. D. 1937.

IN CIRCUIT COURT OF PALM BEACH COUNTY

[Title omitted]

ASSIGNMENTS OF ERROR

Comes now the above named petitioners in the above entitled cause by their attorneys, Sidney J. Catts, Jr., John Ziegler and S. D. McGill, at the time for settling bill of exceptions in the above entitled cause and file these their assignments of error specifically mentioning each point that they intend to present in and by such bill of exceptions as grounds for reversal and pray that the following assignment of error shall be made a part of the bill of exceptions in this cause.

1. The Court erred in denying the petitioners' motion for new trial as amended which said order was entered herein in open Court on the 14th day of November; A. D. 1936.

2. The Court erred in making and entering its judgment on writ of error coram nobis filed herein on the 14th day of November, A. D. 1936.

[fol. 349] 3. The Court erred in its further order of final judgment on writ of error coram nobis filed herein in the 2nd day of December, A. D. 1936.

4. The Court erred in its charge to the jury in the second paragraph of its written instructions in using the words "for murder in the first degree" after the words "these

four men, Isiah Chambers, Jack Williamson, Charlie Davis and Walter Woodward now designated petitioners, were indicted in the Circuit Court of Broward County, Florida."

5. The court erred in its charge to the jury in the second paragraph of its written instructions in using the words "of murder in the first degree" after the words "upon arraignment, three of these men pleaded guilty, and the fourth Isiah Chambers, after a trial upon his plea of not guilty, was found guilty by the jury."

6. The Court erred in its charge to the jury in the second paragraph of its written instructions in using the words "upon arraignment, three of these men pleaded guilty" notwithstanding the record and evidence before the jury showed upon arraignment only two of these men plead guilty and two plead not guilty; the plea of not guilty by Charlie Davis as disclosed by the record was later withdrawn on to-wit: June —, 1933, the same day on which the fourth petitioner, Isiah Chambers, was tried by a jury.

7. The Court erred in giving the following instructions to the jury:

"I have briefly explained the nature of these proceedings so that I may make it clear, first, that no question of the guilt or innocence of these defendants is involved in this matter now before you, and, second, so that you may understand why in this trial the burden of proof is placed upon these petitioners to establish to the reasonable satisfaction of the jury, by a preponderance of the evidence the truth of the facts alleged in at least one of the two assignments of error I have just explained to you, rather than any burden of proof upon the State:

[fol. 350] Accordingly, if it has been established to your reasonable satisfaction by a preponderance of the evidence, that either one, or at least one, of these two assignments of error is true, then you will bring in a verdict for the petitioners. If it is not established to your reasonable satisfaction by a preponderance of the evidence, that at least one of these two assignments of error is true in point of fact, then you will bring in a verdict for the State. Preponderance of the evidence means the probative weight, influence, force or power of the evidence as adduced, considered separately and collectively with reference to the issues in the case."

8. The Court erred in allowing in evidence any reference to the substantive crime charged in the indictment by the State of Florida and erred in instructing the jury in any way or by any reference to the substantive crime charged in the indictment.

9. The Court erred in its failure to instruct the jury that a verdict in favor of the petitioners would not release such petitioners from the charge as contained in the indictment.

10. The Court erred in each of its rulings on each matter set forth as a ground for new trial in petitioners' motion and amendment thereto for a new trial.

11. The Court erred in denying petitioners' motion for an instructed verdict.

12. The Court erred in entering its final judgment against the petitioners because

It affirmatively appears from the evidence and from the record in the proceedings which form the basis of the judgments and sentences of death upon the petitioners in this case that the petitioners and each of them were denied due process of law and the equal protection of the law in violation of the fourteenth amendment to the Constitution of the United States, as follows:

[fol. 351] (a) That they were not given a fair and impartial trial and deliberate trial.

(b) That they were denied the right of counsel with the accustomed incidents of consultation and of preparation for trial, as provided by law.

(Signed) Sidney J. Catts, Jr., John Ziegler, S. D. McGill, Attorneys for Petitioners.

I, J. W. Salisbury, State Attorney for the fifteenth Judicial Circuit of Florida in and for Palm Beach County, hereby acknowledge receipt of a copy of the above and foregoing assignments of error this 19 day of January, A. D. 1937.

(Signed) J. W. Salisbury, State Attorney.

[fol. 352] IN CIRCUIT COURT OF PALM BEACH COUNTY

ORDER SETTLING BILL OF EXCEPTIONS

Inasmuch as the said several matters objected to or insisted upon and considered by the Court do not appear by the record, the said petitioners, did on the 19 day of January, A.D. 1937, after the expiration of said term by virtue of a special order herein made propose this their bill of exceptions to the said rulings of said Judge and request him to sign the same after due notice to the State Attorney, is done this 19 day of January, A.D. 1937. I do hereby certify that the foregoing bill of exceptions contains all the evidence produced before me in the above stated cause on the issues raised in said cause, I further certify that in my opinion it is necessary that the Appellate Court shall have before it for consideration on such writ of error the testimony in question and answer form.

C. E. Chillingworth, Judge of the Circuit Court of the Fifteenth Judicial Circuit of Florida in and for Palm Beach County.

[fol. 353] IN CIRCUIT COURT OF PALM BEACH COUNTY

[Title omitted]

STIPULATION RE BILL OF EXCEPTIONS

It is hereby stipulated and agreed by and between the undersigned attorneys for petitioners and the undersigned State Attorney for Palm Beach County, Florida, that the proposed bill of exceptions prepared in said cause be presented to the Honorable C. E. Chillingworth, Judge of the above styled Court in his office in the Court House in West Palm Beach, Florida, to be settled and for him to sign and certify on the 19th day of January, A.D. 1937, at eleven o'clock A.M. or as soon thereafter as the matter can be heard.

Dated at West Palm Beach, Florida, this 19th day of January, A.D. 1937.

Sidney J. Catts, Jr., John Ziegler, S. D. McGill, Attorneys for Petitioners. J. W. Salisbury, State Attorney, Palm Beach County, Florida.

I, J. W. Salisbury, State Attorney in and for Palm Beach County, Florida, do hereby acknowledge receipt of a true [fol. 354] copy of the proposed bill of exceptions in the above stated cause and assignments of error.

Received at West Palm Beach, Florida, this 19th day of January, A.D. 1937.

J. W. Salisbury, State Attorney.

IN CIRCUIT COURT OF PALM BEACH COUNTY

MINUTE ENTRIES

Thursday, October 15th, A. D. 1936

[Title omitted]

[fol. 355] The Counsel for the State of Florida, Hon. J. W. Salisbury, and Hon. Sidney J. Catts, Jr., one of the counsel for the petitioners above named stipulated in Open Court, this day that hearing on Defendants' Motion for New Trial filed in this cause on October 15th, 1936, will be heard on Monday, October 26th, A.D. 1936, at 2:00 o'clock P.M.

The Court recessed.

Attest: Geo. O. Butler, Clerk Circuit Court, by Merle P. Johnston, Deputy Clerk.

Monday, November 9th A.D. 1936, cont'd.

Pursuant to recess, the Court convened at 2:00 o'clock P.M. November 9th, 1936, the Honorable C. E. Chillingworth, Circuit Judge, presiding, for the purpose of considering a motion and amendment thereto, for a new trial in the following case.

[fol. 356]

[Title omitted]

Comes now the petitioners and each of them in his own proper person and by the counsellors heretofore appointed by the Court to their defense, viz: Messrs. Sidney J. Catts, Jr., and John Ziegler, Esquires; Come also Hon. J. W.

Salisbury and Louis F. Maire, who prosecutes for the State of Florida; Also present: Hon. W. Hiram Lawrence, Sheriff, by his Deputies, Messrs. J. E. Hardwick, Jr., H. E. Motter, H. L. Dyer, and T. P. Riggs, and Geo. O. Butler, Clerk.

The Court having heard the argument of counsel for the Petitioners and that of S. D. McGill, an associate and also the argument for the defendant in error, by Counsel for the State of Florida, informed counsel that the motion would be taken under advisement, and a future decision rendered:

The prisoners were remanded to the custody of the Sheriff.

No further business pending in open Court the Judge ordered a recess.

Attest: Geo. O. Butler, Clerk Circuit Court.

[fol. 357] Saturday, November 14th, A.D. 1936.

[Title omitted]

Now comes the State of Florida by Hon. ~~A~~ W. Salisbury, the State Attorney; also comes the Petitioners, Isiah (Izell) Chambers, Jack Williamson, Charlie Davis and Walter Woodward (Woodard), each in his own proper person, accompanied by Sidney J. Catts, Jr., Esq., their counsel, who duly presented to the Court the motion of the Petitioners for a New Trial; Thereupon the Court being fully advised in the premises entered the Judgment on Writ of Error Coram Nobis, together with Order denying motion for new [fol. 358] trial as follows:

IN CIRCUIT COURT OF PALM BEACH COUNTY

[Title omitted]

ORDER DENYING MOTION FOR NEW TRIAL

This cause came on to be heard in open Court in the presence of the Petitioners and their counsel and was duly presented by counsel for the petitioners and the State, upon petitioners' motion for a new trial as amended. The Court duly considered the matter.

It is the view of this Court that no useful purpose would be served by making a detailed statement of findings and

conclusions upon the questions of fact and law presented in the motion for a new trial. Suffice to say, it is the conclusion of this Court that the credible evidence fails to disclose that the confessions and pleas of petitioners—who were only four men out of a large number questioned—were not in fact freely and voluntarily made by these petitioners, and fails to show that they were in fact obtained from these petitioners by force, coercion, fear of personal violence or under duress.

Thereupon:

It is Ordered and Adjudged that the motion for a new trial, as amended, be and the same is hereby denied.

Done and Ordered at West Palm Beach, Florida, this 14th day of November, A.D. 1936.

C. E. Chillingworth, Judge.

[fol. 359] IN CIRCUIT COURT OF THE FIFTEENTH JUDICIAL CIRCUIT OF FLORIDA IN AND FOR PALM BEACH COUNTY.

Criminal No. 1395

[Title omitted]

JUDGMENT ON WRIT OF ERROR CORAM NOBIS

This cause was duly tried before a Jury of twelve men, and in the presence of the petitioners and their counsel and the other officers of the Court. The Jury found a Verdict against the petitioners and for the State of Florida. Thereafter a motion for a new trial was duly presented by petitioners, and duly argued, considered, adjudicated and denied, after a hearing in open Court.

There appears to be no further reason why a judgment should not be entered upon the merits of the Writ of Error Coram Nobis, Thereupon,

It is Ordered and Adjudged, that neither of the Assignments of Error filed by Petitioners were sustained by the proof before the Jury, nor were they sustained by the proof in the Judgment of this Court. Thereupon

It is Ordered and Adjudged that the issues herein be determined in favor of the State of Florida. Thereupon

It is Further Ordered that the former judgments heretofore rendered in this cause be, and the same are hereby

affirmed as to each petitioner (defendants in the cause as it originated), and that, by reason of the insolvency of the petitioners, the costs of this proceeding be taxed against Broward County and the State of Florida.

[fol. 360] Done and Ordered, in Open Court, this 14th day of November, A. D. 1936.

C. E. Chillingworth, Judge.

The defendants were remanded to the custody of the Sheriff.

No further business pending in open Court the Judge ordered a recess.

Attest: Geo. O. Butler, Clerk Circuit Court.

Wednesday, December 2nd, A. D. 1936.

[fol. 361] The following case was called:

[Title omitted]

The above named petitioners each being present in open Court and accompanied by their counsel heretofore appointed to represent them to-wit: Messrs. Sidney J. Catts, Jr., and John Ziegler, and the counsel for the State of Florida Hon. J. W. Salisbury, being also present, the Court called each of the petitioners, to-wit: Isiah (Izell) Chambers, Jack Williamson, Charlie Davis and Walter Woodward (Woodard) to the Bench and in the presence of their attorneys explained to them the effect of the Trial and Verdict of the Jury entered in this case on October 14th, 1936, and thereupon entered the following order:

IN CIRCUIT COURT OF PALM BEACH COUNTY

[Title omitted]

*ORDER REAFFIRMING SENTENCES

[fol. 362] This cause was duly presented by the State's Attorney and counsel for the petitioners in open Court in the presence of the petitioners and other officials of the Court.

It appearing to the Court that under date of June 29, 1936, this cause was, upon a petition for change of Venue, transferred to Palm Beach County, Florida, for trial upon the issues made in said cause; and thereafter, upon a trial duly had, a Judgment on Writ of Error coram nobis was entered in this Court on the date of November 14, 1936, wherein the former judgments heretofore rendered in this cause were affirmed. Thereupon;

It is Ordered and Adjudged that the four sentences theretofore entered in said cause under date of June 17, 1933, be, and they are hereby, reaffirmed by this Court, and the Sheriff of Palm Beach County, Florida, be, and he is hereby authorized and directed to carry out said sentences by retaining custody of the said petitioners in the Common Jail in Palm Beach County, Florida, until the Governor of the State of Florida shall have issued his Warrant for their execution, and that after the issuance of such warrant of execution by the Governor, the Sheriff of Palm Beach County, Florida, shall deliver said petitioners to the Superintendent of the State Prison at Raiford, Florida, where the said sentences of the Court bearing date of June 17, 1933, shall be carried out by the Superintendent of the State Prison at Raiford, Florida.

Done and Ordered in open Court at West Palm Beach, Florida, this 2nd day of December, A. D. 1936.

C. E. Chillingworth, Circuit Judge.

[fol. 363] The Petitioners thereupon filed a Motion to extend time for filing Bill of Exceptions, and the Court entered the following order there-or, to-wit:

IN CIRCUIT COURT OF PALM BEACH COUNTY

[Title omitted]

SPECIAL ORDER EXTENDING TIME FOR PRESENTING BILL OF EXCEPTIONS

This cause coming on to be heard upon motion of petitioners to extend the time in which to present and file their bill of exceptions in said cause and it appearing that notice

having been waived by the State of the presentation of said motion

It is Therefore Ordered and Adjudged that the said petitioners, Isiah (Izell) Chambers, Jack Williamson, Charlie Davis and Walter Woodward (Woodard) be and they are, jointly and severally, hereby allowed sixty (60) days from this day within which to make up, present and have filed their bill of exceptions in said cause. Let this order be entered in the Minutes of this Court.

Done and Ordered at West Palm Beach, Florida, this 2nd day of December, A. D. 1936.

C. E. Chillingworth, Circuit Judge.

The Court remanded each of the petitioners in this cause to the custody of the Sheriff of Palm Beach County, Florida. [fol. 364] ida.

IN CIRCUIT COURT OF PALM BEACH COUNTY

[Title omitted]

PRAECIPE FOR WRIT OF ERROR—Filed Dec. 2, 1936

To the Clerk of the Above Styled Court:

[fol. 365] You will please issue writ of error in the above styled cause returnable in the Supreme Court of the State of Florida on the 25th day of February, A. D. 1937, and duly record said writ in the minutes of said Circuit Court.

Sidney J. Catts, Jr., John Ziegler, S. D. McGill, Attorneys for Petitioners.

IN CIRCUIT COURT OF PALM BEACH COUNTY

WRIT OF ERROR—Issued Dec. 2, 1936

The State of Florida to the Judge of the Circuit Court of The Fifteenth Judicial Circuit of the State of Florida, Greeting

Because in the record and proceedings and also in the rendition of judgment in a certain cause which is in our said Circuit Court before you between Isiah (Izell) Chambers, Jack Williamson, Charlie Davis and Walter Wood-

[fol. 366] ward (Woodard), as Plaintiffs in error and The State of Florida, as Defendant in Error, manifest error hath happened, as it is said, to the great damage of the said Isiah (Izell) Chambers, Jack Williamson, Charlie Davis and Walter Woodward (Woodard) as by their complaint appears.

We, willing that the error, if any hath been, should be duly corrected and full and speedy justice done to the parties aforesaid in this behalf, do command you that if judgment be therein rendered, you distinctly and openly send the record and proceedings aforesaid, with all things touching them under your seal, together with this writ, to our Supreme Court of the State of Florida, so that you have the same at Tallahassee on the 25th day of February A. D. 1937 in our said Supreme Court to be then and there held, that inspecting the record and proceedings aforesaid, our said Supreme Court may cause further to be done therein, to correct that error, what of right and according to law should be done.

Witness the Honorable James B. Whitfield Chief Justice of the said Supreme Court, and the seal of the said Circuit Court, this 2nd day of December in the year of our Lord One Thousand, Nine Hundred and thirty six.

Geo. O. Butler, Clerk of the Circuit Court of Palm Beach County, By Merle P. Johnston, D. C. (Circuit Court Seal.)

Filed December 2nd, 1936 and recorded in Minutes Circuit Court No. 27 at page 412.

Geo. O. Butler, Clerk Circuit Court, By Merle P. Johnston, Deputy Clerk.

[fol. 367] IN CIRCUIT COURT OF PALM BEACH COUNTY

SCIRE FACIAS AD AUDIENDUM ERRORES—Issued Dec. 2, 1936

THE STATE OF FLORIDA:

To the Sheriff of the Supreme Court of Said State, Greeting:

Whereas, on the petition of Isiah (Izell) Chambers, Jack Williamson, Charlie Davis and Walter Woodward (Woodard) alleging that in the record and proceedings and also in the rendition of Judgment in a certain cause in the Cir-

cuit Court of our Fifteenth Judicial Circuit, in and for Palm Beach County, between Isiah (Izell) Chambers, Jack Williamson, Charlie Davis and Walter Woodward (Woodard), as Plaintiffs in Error and The State of Florida, as Defendant in Error manifest error hath happened, to the great damage of the said Isiah (Izell) Chambers, Jack Williamson, Charlie Davis and Walter Woodward (Woodard) a Writ of Error hath been awarded that our Supreme Court, having inspected the record and proceedings aforesaid, may cause to be done therein to correct that error what of right and according to law should be done.

[fol. 368] Therefore, We command you that you Make Known to the said State of Florida that it be before our said Supreme Court at the City of Tallahassee on the 25th day of February, A. D. 1937, then and there to hear the record and proceedings aforesaid and the errors assigned, if to them it shall seem expedient, and further to do and receive what our said Court shall in that behalf consider; and have you then and there this Writ.

Witness the Honorable James B. Whitfield Chief Justice of the said Supreme Court, and the seal of the said Circuit Court, this 2nd day of December in the year of Our Lord One Thousand, Nine Hundred and thirty six.

Geo. O. Butler, Clerk of the Circuit Court of Palm Beach County, By Merle P. Johnston, D. C. (Circuit Court Seal.)

Endorsed on back thereon:

STATE OF FLORIDA,
County of Leon:

I hereby accept service of the within Writ this 7th day of December, A. D. 1936.

Cary D. Landis, Attorney General of the State of Florida, by Roy Campbell, Assistant Attorney General.

STATE OF FLORIDA,
County of Palm Beach:

I hereby accept service of the within writ this 14 day of December, A. D. 1936.

J. W. Salisbury, State Attorney, 15th Judicial Circuit, Palm Beach County, Florida.

[fol. 369] IN CIRCUIT COURT OF PALM BEACH COUNTW

[Title omitted]

COMPLETE ASSIGNMENTS OF ERROR—Filed Jan. 19, 1937

Comes now the above named petitioners in the above entitled cause by their attorneys, Sidney J. Catts, Jr., John Ziegler and S. D. McGill, in the above entitled cause and file these their complete assignments of error specifically mentioning each point that they intend to rely on as grounds for reversal in the Supreme Court of the State of Florida:

1. The Court erred in denying the petitioner's motion for new trial as amended which said order was entered herein in open Court on the 14th day of November, A. D. 1936, in that:

a. The verdict is contrary to the instructions of the Court. [fol. 370] b. The verdict is contrary to the evidence.

c. The verdict is contrary to the evidence and instructions of the Court.

d. The verdict is contrary to law.

e. The Court erred in denying and overruling petitioners' motion for instructed verdict.

f. The Court erred in refusing to give petitioners' requested charges Nos. 1, 2, 3, 4, 6 and 10.

g. The Court erred in instructing the jury that "the burden of proof in this case was upon the petitioners to establish to the reasonable satisfaction of the jury by a preponderance of the evidence" the truth of either of their assignments of error.

h. The Court erred in overruling petitioners' objections to the State referring in its questioning of its witnesses to "the time Mr. Darsey was robbed and murdered."

i. The Court erred in overruling the petitioners' objections to the State's Attorney propounding questions to each of the State's witnesses to-wit: Walter Clark, A. D. Marshall, Constable R. C. Helton and others which questions were read by the State's Attorney to such witnesses and which questions pertained to different forms of mistreatment by the officers toward the petitioners and elicited from such witnesses answers of yes or no.

j. The Court erred in his charge to the jury as contained in the second paragraph of his written instructions in using the words "*For Murder in the First Degree*" after the

words "These four men, Isiah Chambers, Jack Williamson, Charlie Davis and Walter Woodward now designated petitioner [fol. 371] tioners, were indicted in the Circuit Court of Broward County, Florida."

k. The Court erred in his charge to the jury as contained in the second paragraph of his written instructions in using the words "*Of Murder in the First Degree*" after the words "Upon arraignment, three of these men pleaded guilty, and the fourth Isiah Chambers, after a trial upon his plea of not guilty, was found guilty by the jury".

l. The Court erred in his charge to the jury as contained in the second paragraph of his written instructions in using the words "Upon arraignment, three of these men pleaded guilty" notwithstanding the record and evidence before the jury showed upon arraignment only two of these men plead guilty and two plead not guilty; the plea of not guilty by Charlie Davis as disclosed by the record was later withdrawn on to-wit: June—, 1933, the same day on which the fourth petitioner, Isiah Chambers, was tried by a jury.

m. The Court erred in giving the following instructions to the jury:

"I have briefly explained the nature of these proceedings so that I may make it clear, first, that no question of the guilt or innocence of these defendants is involved in this matter now before you, and, second, so that you may understand why in this trial the burden of proof is placed upon these petitioners to establish to the reasonable satisfaction of the jury, *by a preponderance of the evidence* [fol. 372] the truth of the facts alleged in at least one of the two assignments of error I have just explained to you, rather than any burden of proof upon the State.

Accordingly, if it has been established to your reasonable satisfaction *by a preponderance of the evidence*, that either one, or at least one, of these two assignments of error is true, then you will bring in a verdict for the petitioners. If it is not established to your reasonable satisfaction *by a preponderance of the evidence*, that at least one of these two assignments of error is true in point of fact, then you will bring in a verdict for the State. Preponderance of the evidence means the probative weight, influence, force or power of the evidence as adduced, considered separately and collectively with reference to the issues in the case."

n. The Court erred in allowing in evidence any reference to the substantive crime charged in the indictment by the State of Florida and erred in instructing the jury in any way or by any reference to the substantive crime charged in the indictment.

o. The Court erred in its failure to instruct the jury that a verdict in favor of the petitioners would not release such petitioners from the charge as contained in the indictment.

p. It affirmatively appears from the evidence and from the record in the proceedings which form the basis of the judgments and sentences of death upon the petitioners in [fol. 373] this case that the petitioners and each of them were denied due process of law and the equal protection of the law in violation of the Fourteenth Amendment to the Constitution of the United States as follows:

q. That they were not given a fair and impartial trial and deliberate trial.

r. That they were denied the right of counsel with the accustomed incidents of consultation and of preparation for trial, as provided by law."

2. The Court erred in making and entering its judgment on writ of error coram nobis filed herein on the 14th day of November, A. D. 1936.

3. The Court erred in its further order of final judgment on writ of error coram nobis filed herein on the 2nd day of December, A. D. 1936.

4. The Court erred in its charge to the jury in the second paragraph of its written instructions in using the words "for murder in the first degree" after the words "these four men, Isiah Chambers, Jack Williamson, Charlie Davis and Walter Woodward now designated petitioners, were indicted in the Circuit Court of Broward County, Florida."

5. The Court erred in its charge to the jury in the second paragraph of its written instructions in using the words "of murder in the first degree" after the words "Upon arraignment, three of these men pleaded guilty, and the fourth Isiah Chambers, after a trial upon his plea of not guilty, was found guilty, by the jury".

6. The Court erred in its charge to the jury in the second paragraph of its written instructions in using the words

"upon arraignment, three of these men pleaded guilty, [fol. 374] "notwithstanding the record and evidence before the jury showed upon arraignment only two of these men plead guilty and two plead not guilty; the plea of not guilty by Charlie Davis as disclosed by the record was later withdrawn on to-wit: June —, 1933, the same day on which the fourth petitioner, Isiah Chambers, was tried by a jury.

7. The Court erred in giving the following instructions to the jury:

"I have briefly explained the nature of these proceedings so that I may make it clear, first, that no question of the guilt or innocence of these defendants is involved in this matter now before you, and second, so that you may understand why in this trial the burden of proof is placed upon these petitioners to establish to the reasonable satisfaction of the jury, by a preponderance of the evidence the truth of the fact alleged in at least one of the two assignments of error I have just explained to you, rather than any burden of proof upon the State.

Accordingly, if it has been established to your reasonable satisfaction by a preponderance of the evidence, that either one, or at least one, of these two assignments of error is true, then you will bring in a verdict for the petitioners. If it is not established to your reasonable satisfaction by a preponderance of the evidence, that at least one of these two assignments of error is true in point of fact, then you will bring in a verdict for the State. Preponderance of the [fol. 375] evidence means the probative weight, influence, force or power of the evidence as adduced, considered separately and collectively with reference to the issues in the case."

8. The Court erred in allowing in evidence any reference to the substantive crime charged in the indictment by the State of Florida and erred in instructing the jury in any way or by any reference to the substantive crime charged in the indictment.

9. The Court erred in its failure to instruct the jury that a verdict in favor of the petitioners would not release such petitioners from the charge as contained in the indictment.

10. The Court erred in each of its rulings on each matter set forth as a ground for new trial in petitioners' motion and amendment thereto for a new trial.

11. The Court erred in denying petitioners' motion for an instructed verdict.

12. The Court erred in entering its final judgment against the petitioners because it affirmatively appears from the evidence and from the record in the proceedings which form the basis of the judgments and sentences of death upon the petitioners in this case that the petitioners and each of them were denied due process of law and the equal protection of the law in violation of the fourteenth amendment to the Constitution of the United States, as follows:

[fol. 376] (a) That they were not given a fair and impartial trial.

(b) That they were denied the right of counsel with the accustomed incidents of consultation and of preparation for trial, as provided by law.

Sidney J. Catts, John Ziegler, S. D. McGill, Attorneys for Petitioners.

I, J. W. Salisbury, State Attorney for the Fifteenth Judicial Circuit of Florida in and for Palm Beach County, hereby acknowledge receipt of a copy of the above and foregoing complete assignments of error this 19 day of January, A. D. 1937.

J. W. Salisbury, State Attorney.

[fol. 377] IN CIRCUIT COURT OF PALM BEACH COUNTY

[Title omitted]

PRAECIPE FOR TRANSCRIPT OF RECORD—Filed Jan. 19, 1937

To Honorable George O. Butler, Clerk of Circuit Court of Palm Beach County, Florida:

You will please prepare a transcript of record in the above named and stated case for the petitioners. You are hereby directed to commence the making up of said transcript on the 4th day of February, A. D. 1937, said date being not less than fifteen days after the filing of these directions.

You are further directed to copy and make a part of said transcript the following papers and proceedings, to-wit:

1. The assignment of errors on writ of coram nobis.

2. Traverse or answer of State Attorney to assignment of errors on writ of coram nobis;

3. The verdict of the jury.

4. The final judgment rendered in said cause on the 14th day of November, A. D. 1936.

5. The final judgment rendered in said cause on the 2nd day of December, A. D. 1936.

6. The bill of exceptions and also the assignment of errors made a part thereof, and also stipulation to settle [fol. 378] bill of exceptions and acknowledgment of service of copy of proposed bill of exceptions and assignment of errors.

7. Praecipe for writ of error and the recording of said writ of error.

8. Scire Facias ad Audiendum Errores and service of same on Attorney General and State Attorney.

9. Motion for change of venue.

10. Order for change of venue.

11. Recite and copy the minutes of Court on 12th day of October, A. D. 1936, and each time subsequent thereto petitioners were before Court in this case.

12. Recite recordation of order extending time to present and settle bill of exceptions in minutes Circuit Court, and copy such order.

13. Recite and copy Complete Assignments of Error filed herein on the 19th day of January, A. D. 1937.

14. These directions to the Clerk for making up transcript of record.

15. Certify said transcript according to law.

Sidney J. Catts, Jr., John Ziegler, S. D. McGill, Attorneys for Petitioners.

Received a true copy of the above and foregoing written directions to the Clerk as to making up transcript of record on the 19 day of January, A. D. 1937.

J. W. Salisbury, State Attorney, Palm Beach County, Florida.

[fol. 379] Clerk's certificate to foregoing transcript omitted in printing.

[fol. 380] I hereby acknowledge receipt of a true copy of above transcript this — day of February, A. D. 1937.

J. W. Salisbury, State Attorney.

Copy.

[fol. 381] IN SUPREME COURT OF FLORIDA, JUNE TERM,
A. D. 1938. DIVISION A

ISIAH (ISEL) CHAMBERS, JACK WILLIAMSON, CHARLIE DAVIS,
and WALTER WOODARD (WOODWARD), Petitioners;

vs.

THE STATE OF FLORIDA, Defendant

A writ of error to the Circuit Court, for Palm Beach County, C. E. Chillingworth, Judge.

Sidney J. Catts, Jr., and S. D. McGill, for Plaintiffs in error.

Cary D. Landis, Attorney General, and Tyrus A. Norwood, Assistant — General, for the State.

OPINION—Filed March 3, 1939

TERRELL, J.:

This is the fifth time that different phases of this case have been adjudicated by us. Chambers et al. vs. State, 111 Fla. 707, 151 So. 499; Chambers et al. vs. State, 113 Fla. 786, 152 So. 437; Chambers et al. vs. State, 117 Fla. 642; 158 So. 153; Chambers et al. vs. State, 123 Fla. 734, 167 So. 697. A statement of the essential facts involved in each consideration is detailed with these citations.

The instant writ of error was to a final judgment against plaintiffs in error in the fourth trial, being upon error coram nobis. The sole question involved is whether or not certain confessions and pleas of guilty entered by the defendants were their free and voluntary act, or whether they were extorted by force, coercion, fear, duress, and personal violence.

In the first writ of error, we affirmed the conviction of all four defendants of murder in the first degree. On the second appearance, we granted them leave to apply to the trial court for writ of error coram nobis for the purpose of determining whether or not certain confessions made by

them and on which they were convicted had been extorted from them by duress. The Circuit Judge tried and determined this issue against defendants and on writ of error to this Court the third time, we reversed this decision holding that the issue should have been tried by a jury. The cause was again remanded and tried before a jury but was re-[fol. 382] versed because of erroneous charges by the trial court.

The trial and determination of an issue joined on error coram nobis is one for the jury to resolve after hearing the evidence and appropriate charges by the Court in the same manner that other issues of fact are determined. This Court as well as the trial court is bound by the same rules of evidence and procedure in trying an issue of this kind that it is in the trial of other issues and under no circumstances should the province of the jury be invaded.

On the issue joined in this case, the evidence is in hopeless conflict. The defendants in their behalf testified that they were brutally treated and put through all sorts and kinds of third degree methods for about a week before the confessions were secured and on the last night before they confessed, they were not permitted to sleep but were threatened, whipped, and tortured all night. The confessions were secured about six o'clock the following morning. As to the charges of having been whipped, tortured, and ill treated, their testimony is not corroborated. It is corroborated as the fact of having been kept up all night and questioned the night before the confessions were secured.

The evidence of defendants as to torture and cruel treatment is flatly denied by the Sheriff, the jailer and other witnesses. The latter testimony is corroborated by that of several prisoners who were in jail with defendants at the time, a telephone workman who was working about the jail, the State Attorney, who took the confessions, and other witnesses. All of the questioning took place in the jail.

The testimony of the plaintiffs in error, if taken alone, was ample to show that the confessions and pleas were secured through coercion, duress, and reprehensible means, but it was flatly denied and the denial was strongly corroborated. In this situation, it became the function of the jury to resolve the conflict in the evidence and they resolved it against the defendants. Error in doing so is not made to appear.

Confessions such as are involved in this case are not deemed voluntary as a matter of law. To be admissible as evidence, they must be made by one competent to make them and they must not be induced by punishment, threats, duress, or promises of reward. A confession is not vitiated by the fact that it was made to a Sheriff while the confessor was in custody after a protracted examination, provided the examination was orderly and properly conducted. If conducted otherwise, the confession is illegal and should be excluded from the jury.

[fol. 383] Testimony to determine all these facts is permissible and if it shows that force, compulsion, or tender of reward was offered, the confession so obtained is inadmissible as evidence. *Hopt. vs. People of Utah*, 110 U. S. 574, 4 Sup. Ct. 202, 28 L. Ed. 262; *Sparf vs. United States*, 156 U. S. 51, 15 Sup. Ct. 273, 39 L. Ed. 343; *Pierce vs. United States*, 160 U. S. 355, 16 Sup. Ct. 321, 40 L. Ed. 454; *Wilson vs. United States*, 162 U. S. 613, 16 Sup. Ct. 895, 40 L. Ed. 1090; *Bram vs. United States*, 168 U. S. 532, 18 Sup. Ct. 183, 42 L. Ed. 568; *Powers v. United States*, 233 U. S. 303, 32 Sup. Ct. 281, 56 L. Ed. 448; and cases on other page. See decisions of many state courts to same effect in *Chambers et al. vs. State*, 123 Fla. 734, 167 So. 697.

We have reviewed the evidence carefully and find nothing that would warrant a reversal of the verdict and judgment of the trial court. The defendants were charged with the commission of a heinous crime; to wit, the murder for robbery of Robert Darsey of Pompano, Florida. Some twenty-five or thirty persons were arrested on suspicion as being implicated in connection with this murder but all were ultimately released except defendants. All night vigils in proceedings of this kind are not approved but are not ipso facto illegal.

In lodging responsibility for slaying of Mr. Dorsey, against defendants and releasing the others who were arrested in connection with it, a great deal of questioning was done and the sheriff's office was vigilant in apprehending the guilty parties. It was one of those crimes that induced an enraged community and this fact goes far to explain the questioning and the fact that it was in progress several days and all night before the confessions were secured.

Two trial judges and two juries have decided all the material issues against the defendants. The gravamen of their defense seems to be that since one key man planned

the robbery and secured most of the proceeds of it, all should not suffer the death penalty. This was a question for the jury to determine and they resolved it against the defendants after having an opportunity to recommend them to mercy. So far as the record discloses, defendants are shown to have been accorded a fair trial.

It is also contended here that defendants were arraigned, and put on trial without the appointment of counsel to represent them or without the opportunity to confer with counsel before trial.

This was not one of the issues before the jury and the record does not show a formal order of the trial court appointing counsel to represent defendants but it is shown that they were represented at the trial by able and experienced counsel who conferred with them before the trial. The fact that the record shows no formal order appointing [fol. 384] counsel to represent them is not material but the better practice is that such an order should be shown.

It follows that the judgment below must be and is hereby affirmed.

Affirmed.

Whitfield, Buford and Chapman, J. J., concur.

Brown, J., dissents.

Thomas, J., not participating, because the case was submitted before he became a member of the Court.

IN SUPREME COURT OF FLORIDA

DISSENTING OPINION

BROWN, J., dissenting:

While I have great respect for the ability and courage of the distinguished trial judge, as well as for the opinion of my eminent associates, I am of the opinion that the court below erred in overruling the motion of the petitioners for a new trial. My view is that the evidence in the case entitled the petitioners to a verdict in their favor upon the first assignment of error. This assignment charged that the confessions and pleas of these petitioners, which formed the basis of the judgments and sentences complained of, were not in fact freely and voluntarily made by the petitioners.

Insofar as the second assignment of error is concerned, I concur with the other members of the Court that the jury's verdict is sustained by the weight of the evidence. This second assignment of error charged that the confessions of the petitioners were obtained by force, coercion, duress and fear of personal violence. Insofar as that assignment of error is concerned, I think the jury's verdict, which was adverse to the petitioners, was well founded. As to this very serious charge, Sheriff Clark and his deputies were, in my opinion, justly and properly vindicated.

It is the first assignment of error, and the verdict of the jury thereon, which gives me serious concern. If there be any error in this case, on the part of the trial judge, it was in the denial of the motion for new trial in so far as said motion was based on the ground that, as to this first assignment of error, the verdict of the jury was contrary to the weight and probative effect of the evidence, in the light of the applicable law.

A great legal principle is at stake in this case. [fol. 385] Unquestionably, the trial of this case was very fairly and ably conducted. The trial judge was eminently fair, alike to the petitioners and to the State. His rulings upon questions of evidence and his charge to the jury were free from any error. The questions involved were so clearly and fairly presented to the jury that they could not possibly have misunderstand the issues of fact which they were called upon to determine, and the law applicable thereto.

The murder and robbery of the elderly Ma. Darsey at Pompano, Florida, some six years ago, was a most dastardly and atrocious crime. It naturally aroused great and well justified public indignation. The vigorous efforts of Sheriff Clark and his deputies to get at the facts and bring the guilty parties to be commended. At best, law enforcement officers have a difficult task to perform, and even when in their zeal they go somewhat beyond the bounds fixed by law in their efforts to obtain evidence sufficient to convict those whom they have reason to believe have been guilty of some heinous offense, the public is reluctant to criticize or condemn them. Indeed, at the time, they are more likely to be praised. It is a matter of common knowledge that when some cruel and brutal crime is committed, public opinion and newspaper articles usually demand immediate solution of the oft-times difficult problem of who are the guilty perpetrators, and also demands their prompt convic-

tion and punishment. But there are certain rights of the individual, whether he be guilty or innocent, of crime, which have been for many years guaranteed to him, not only by the common law, but also by constitutions and laws of the State and nation. One of the well settled rules designed to produce these rights is the rule of law that no person shall be compelled to be a witness against himself, and that no confession of a defendant can be introduced in evidence against him unless it was freely and voluntarily made, without any offer of reward or fear of punishment, or any semblance of duress or coercion. This principle was established as a natural result of the reaction against the rack, the thumb-screw and the torture chamber of the dark ages, which were used to compel men, frequently innocent, to confess guilt of crime, or to recant what were deemed to be statements of religious heresies.

Anything in the nature of third degree methods is not countenanced by the law in obtaining confessions. I do not say that third degree methods, strictly speaking, were used in this case. The jury manifestly did not think so. I do not believe that there was any physical torture or punishment visited upon these young negro men to force them to confess. The evidence to the contrary is too strong. But it is a well-established principle of law that confessions which are obtained from persons in custody by prolonged repeated and persistent examinations and questionings by [fol. 386] the officers of the law in whose custody they are, are inadmissible in evidence. Especially is this rule applicable where the accused is young and ignorant and not possessed of that intelligence and willpower which would enable him to cope successfully with his questioners. Furthermore, there was evidence in this case that by reason of the enormity of the crime involved there was some fear of mob violence, of which the petitioners were informed, and that these petitioners were taken from the jail in Fort Lauderdale by night to the jail in Miami, then brought back the next morning.

When this case was before us the last time, 123 Fla. 734, 167 So. 697, the case was reversed on account of an erroneous charge which this court held did not submit to the jury the question raised by the first assignment of error; that is, whether or not the confession and pleas of guilty were freely and voluntarily made. However, as showing

the materiality of this error, this court did make some comment upon the testimony, which comment was as follows:

"Even if the jury totally disbelieved the testimony of the petitioners, the testimony of Sheriff Walter Clark, and one or two of the other witnesses introduced by the State, was sufficient to show that these confessions were only made after such constantly repeated and persistent questioning and cross-questioning on the part of the officers and one J. T. Williams, a convict guard, at frequent intervals which they were in jail, over a period of about a week, and culminating in an all-night questioning of the petitioners separately in succession, throughout practically all of Saturday night, until confessions had been obtained from all of them, when they were all brought into a room in the jailer's quarters at 6:30 on Sunday morning and made their confessions before the state attorney, the officers, said J. T. Williams, and several disinterested outsiders, the confessions, in the form of questions and answers, being taken down by the court reporter, and then type-written.

"Under the principles laid down in *Nickles v. State*, 90 Fla. 659, 106 So. 497; *Davis v. State*, 90 Fla. 317, 105 So. 843; *Deiterle v. State*, 98 Fla. 739, 124 So. 47; *Mathieu v. State*, 101 Fla. 94, 133 So. 550, these confessions were not legally obtained.

"It is quite generally held in other jurisdictions that confessions which were made by persons in custody after prolonged and persistent examination by sheriffs or police officers are inadmissible in evidence on the ground that confessions so obtained cannot be considered as freely and voluntarily made." (Citing numerous authorities.)

[foi. 387] While there was some differences in the testimony on this trial from that with reference to which above comment was made; the testimony of Sheriff Clark remains substantially the same. He did not remember some of the details testified to on the preceding trial, which was perfectly natural in view of the length of time which had elapsed, but his testimony on both trials impresses the writer with having been very frank and candid. On this trial, Sheriff Clark said that he and his assistants did not devote all of Saturday night to the questioning of these four men; that several others were questioned; that he began the examination in the late afternoon and then took an hour or so off for supper and then another recess about the middle

of the night, for an hour or an hour and a half; that he had these men brought, one at a time, to the jailer's quarters, where the examinations took place, which separate examinations would not last more than fifteen to twenty-five minutes; that the total questioning of any one man during the whole night did not amount to more than two to three hours, and that they had time to sleep and rest between questionings. But his testimony and that of the other State's witnesses, does show frequent examinations throughout the week and a very persistent questioning and cross-questioning of these petitioners at frequent intervals during a large part of Saturday night, until the confessions were obtained early the following Sunday morning.

It might be said that these comments quashed from our former opinion related to confessions made out of court, and that this does not lessen the force of the fact that three of these petitioners, sharply thereafter, pleaded guilty in open court. The fourth, Isiah Chambers, pleaded not guilty and went to trial and was convicted, the confessions of the other three being used against him.

Undoubtedly, a plea of guilty interposed by a defendant in open court is presumptively free and voluntary. But having just shortly before, confessed their guilty before the officers of the court, it might well be said that their pleas of guilty were made as a result of such confessions, and that if such confessions were not freely and voluntarily made, neither were their pleas of guilty. When this case was here on petition for leave to apply to the trial court for writ of error coram nobis, this court speaking thr-u- Mr. Justice Buford (111 Fla. 707, 717, 152 So. 437, 438) said:

"It is true that the record and stenographer's report of the testimony taken at the trials, which are made a part of the petition presented to this Court, show that each of the witnesses to whom it was alleged that the extra-judicial confessions were made each testified that 'at the time' of the [fol. 388] alleged confessions there was no force or coercion used to procure the confessions but they did not make it clearly appear that force and coercion had not been used prior thereto, which force and coercion resulted in such confessions. It is also true that each of the defendants testified in the trial that the confessions were freely and voluntarily made and that the respective statements of each made upon the trial was the free and voluntary statement of such defendant as a witness in his behalf, but if it is a fact, as

alleged in the petition, that these petitioners were coerced, threatened and frightened in such manner as to cause them against their will to make such statements at that time they come clearly within the purview of the law as announced in the cases of Nickels v. State, supra, and Washington v. State, supra.

"If the allegations of the petition are not true, they may be traversed in due course in the court below and thereupon the issues as to the truth of such allegations may be judicially determined."

In Nickels v. State, 86 Fla. 288, 99 So. 121, this Court held that:

"A plea of guilty should be entirely voluntary, by one competent to know the consequences, and should not be induced by fear, misapprehension, persuasion, promises, inadvertance, or ignorance. Accordingly, it will not bind the defendant where it is entered through intimidation, however slight; and a judgment is not properly entered on it where the court does not satisfy itself of the voluntary character of the plea."

And in Casey v. State, 116 Fla. 3, 156 So. 282, this Court held that:

"Plea of guilty to serious criminal charge should be freely and voluntarily made and entered by accused without semblance of coercion and without fear or duress of any kind.

"When plea of guilty was entered by ignorant young man charged with capital offense, and evidence as to whether plea was entered through fear, duress, misunderstanding or improper influence was in hopeless conflict, accused should be allowed to withdraw guilty plea and proceed to trial on not guilty plea."

In Coffee v. State, 25 Fla. 501, 511, 6 So. 493, 496, this Court said:

"It is a rule of law that the confessions of parties charged with crime should be acted upon by courts and juries *with great caution*. 1 Greenleaf on Evidence, section 200.

"The wisdom of this rule cannot be questioned, for the reason that, notwithstanding the confessions of persons accused of crime have been held to be evidence of the very

highest character, upon the theory that no man would acknowledge that he had committed a grave crime unless he was actually guilty, but experience teaches that this theory [fol. 389] is a fallacy, for it is a fact that numbers of persons have confessed that they were guilty of the most heinous crimes, for which they suffered the most horrible punishments, and yet they were innocent.

"In the sixteenth and seventeenth centuries, in enlightened England, men and women confessed that they were guilty of witchcraft * * * communion with evil spirits, and suffered at the stake therefor, and at this day men through fear of personal punishment, or through hope of averting such punishment, confess that they are guilty of crime, without the slightest foundation in truth for such confession, and for these reasons we say that the theory that men will not confess to the commission of crimes of which they are innocent, is a fallacy.

"There is another rule of law, and it has its foundation in *justice*, and that is, that when a confession has, in the first place, been made under illegal influences, such influences will be presumed to continue and color all subsequent confessions, unless the contrary is *clearly shown*."

It may be that these four petitioners are in fact all guilty, and that they would be so found by a jury if this case should be remanded for a trial on the merits, without the confessions being introduced in evidence. But the guilt or innocence of *of* these pe- is not the question before us. The question here is, whether, on the testimony in this *coram nobis* case, the verdict of the jury, finding, in effect, that the confessions and pleas of guilty of these petitioners were freely and voluntarily made, should have been set aside by the trial judge on motion for new trial.

My view is that the verdict of the jury was contrary to the weight and probative force of the evidence on this point and that the court below should have granted the motion for new trial. I have reached this conclusion with some reluctance, in view of the fact that the issues were fairly and squarely presented to the jury and both trial and appellate courts are both to set aside the findings of juries on disputed questions of fact. And in this case, the learned trial judge, who heard the witness testify declined to disturb the verdict.

But in this instance I have based my conclusion upon the testimony of the State's witnesses alone. Taking the facts

established by the State's own testimony, considered in the light of the applicable principles of law, my conclusion is that these confessions and pleas were not "freely and voluntarily" made.

[fol. 390] IN SUPREME COURT OF FLORIDA

[Title omitted]

PETITION FOR RE-HEARING

Come Now the petitioners in the above entitled cause, by their undersigned attorneys, and move the Court to reconsider the Transcript of Record in this cause now before the Court on the writ of error taken to this Court, to ascertain if anything contained in said Transcript was overlooked by the Court or not fully considered, in view of the death sentences and of the magnitude of the principles involved in this cause, and to vacate and set aside the judgment and sentences of death upon the petitioners herein, upon the following grounds:

I

That the death sentences in this cause are based upon the petitioners' confessions of guilt out of court and subsequently in court, upon their arraignment in the Circuit Court of Broward County, Florida. That the testimony of the petitioners as shown by the transcript in this cause will appear that said confessions were made through fear and intimidation; that they were not freely given; that they were frightened into making such confessions of guilt and guilty pleas by one J. T. Williams, a convict guard, who was in charge of said petitioners in the Broward County Jail from the time of their incarceration, May 13, 1933, to the time of the confessions and entering their guilty pleas, on the morning of May 21, 1933.

[fol. 391] Petitioners further sheweth unto the Court that they believe that the Court has perhaps overlooked the testimony of J. T. Williams, Walter Clark and R. C. Helton, given in the Broward County Court at the trial of your petitioners, particularly the following questions and answers which appear in the original transcript filed in this Court and upon which the Court's Opinion was based in December 1933, in *Chambers et al. v. State*, 151 So. 499, from which the following evidence as to how these confessions were obtained will appear as follows:

Direct examination

By Mr. Maire:

Q. Mr. Clark, what official position did you hold on the 20th and 21st day- of May 1933?

A. Sheriff of Broward County.

Q. During the night of May 20 and 21, did you at any time see Izell Chambers, Charlie Davis, Jack Williamson and Walter Woodard?

A. Yes, sir.

Q. Who was present when you first talked with this defendant, Izell Chambers?

A. Why, Mr. Williams, A. D. Marshall and Mr. McNeil, Clyde Helton—

Q. Did he ever make a statement with reference to the death of Mr. Robert M. Darcey of Pompano on May 13, 1933?

A. Yes sir.

Q. When did he first make a statement with reference to that?

A. Along about the middle of the night sometime he began to talk about it, along the middle of the night he began to tell us about daylight.

Q. Who was present when you first began to talk with this defendant, Izell Chambers, the early part of the night?

A. Mr. Williams, McNeil, Clyde Helton, Mr. Marshall and myself.

Q. Is it true that a statement was made the following Sunday morning?

A. Yes sir.

Q. Who was present at that time?

A. Why, Mr. Marshall, Mr. Williams, McNeil, Clyde Helton, Mr. Coleman, myself, Mr. Ford and Mr. Johnson and Mr. Goodrich.

Q. Now Mr. Clark, when was this defendant, Izell Chambers, brought to the Broward County Jail in Fort Lauderdale, if you remember?

A. It was on Sunday night.

Q. Sunday night after Mr. Darcey was struck?

A. Yes sir.

Q. From that time he was brought to the jail was he ever questioned when you were not present?

A. No sir.

Q: From the Sunday night that he was brought to the jail until this statement was taken in writing, how long a period of time was that?

A. Sunday night until Sunday morning would be a little over a week, about a week and twelve hours, because we brought him here Sunday night and he made the statement Sunday morning.

Q. During that whole week were you present every time he was questioned?

A. Yes sir, because I made it my business to be there.

Q. During that whole week, at any time during that week when you were present and statements were made, did you or anybody in your presence make any promises or offer any inducements to induce him to talk?

A. The only thing we told him was the best thing he could do was to tell the truth.

Q. During that time did Jack Williamson, Charlie Davis and Walter Woodard ever make a statement in the presence of Izell Chambers?

A. Yes sir.

Q. Did you or any one in your presence ever tell any one [fol. 392] of the three defendants or make any promises to them to induce them to talk?

A. No sir.

Q. During that whole week did you or any one in your presence threaten any of these defendants in any way or use any physical violence or any coercive measures in any way to induce them to make statements?

A. No sir.

Q. Such statements as they made during that whole week, how were they questioned and statements elicited?

A. By questioning and cross questioning them, catching them in a lie now and then and straightening them out.

Q. Were such statements as were made, made freely and voluntarily on the part of the defendants?

A. Yes sir.

J. T. WILLIAMS, having been previously duly sworn, being called on behalf of the State, testified as follows:

Q. Mr. Williams, where did you live on the 13th day of May and the week following?

A. Boynton, Palm Beach County, Florida.

Q. Do you know this defendant, Izell Chambers, now on trial?

A. Yes sir.

Q. Do you know Charley Davis, Jack Williamson and Walter Woodard?

A. Yes sir.

Q. Have you had any occasion to talk to Izell Chambers, this defendant and Charley Davis, Jack Williamson and Walter Woodard in the presence of this defendant?

A. Yes sir.

Q. Subsequent to the 13th day of May 1933?

A. Yes sir.

Q. When was the first time you talked to him, Mr. Williams?

A. On Monday after the 15th.

Q. Was a statement made at that time with reference to the death of Mr. Darcey?

A. No sir.

Q. Did you talk to them throughout the following week?

A. Practically, yes Sir. As much as I could stay awake.

Q. Were you present on Saturday night commencing May 20, 1933, and also present Sunday morning May 21, 1933, when the statement was made?

A. Yes sir.

Q. Were all the defendants present at that time?

A. On Sunday morning, yes Sir.

Q. Was anybody else present?

A. Yes sir.

Q. Do you know the other gentlemen that were present?

A. Most of them, yes sir.

Q. Name the ones that you know.

A. Sheriff Clark, Mr. Goodrich, Mr. Helton, Mr. Marshall, Mr. Ford, Mr. Johnson, Mr. McNeil, the prosecuting Attorney, Mr. Coleman and myself.

Q. On Sunday morning May 21, 1933, and at any time the whole week prior to that time, that you and any one else were present talking to either Izell Chambers, this defendant, or Charley Davis, Jack Williamson or Walter Woodard, in his presence, did you or any one at any time ever make any promise or offer any inducement in order to get them to talk?

A. No Sir.

R. C. HELTON, having previously been duly sworn, being recalled by the State, testified in the presence of the Jury as follows:

Direct examination.

By Mr. Maire:

Q. Mr. Helton, when was the first time that you had a conversation with the defendant, Izell Chambers, with reference to the death of Mr. Robert M. Darcey at Pompano?

A. I think it was on a Monday afternoon following the Saturday night of the occurrence.

Q. Who was present, if you recall, at that time besides the defendant and yourself?

A. Sheriff Clark and Mr. Williams, Mr. Wright and I don't know whether it was Mr. Goodrich or Mr. Bob Clark, I think was present, and Mr. Moseley.

Q. At that time did you or did any one in your presence make any promise of any nature in order to induce the defendant, Izell Chambers, to talk?

A. No sir.

Q. At that time did you or did any one in your presence make any threats to use any violence to induce the defendant Izell Chambers to talk?

A. No sir.

Q. Did he make a statement at that time with reference to the Deceased, Mr. Robert M. Darcey?

A. No sir.

Q. Were you present on Sunday May 21, 1933, when the statement was made by the defendant, Izell Chambers?

A. Yes sir.

Q. Who else was present at that time if you remember, Mr. Helton?

A. I don't know whether I can call them all or not, but there was Mr. Williams, the Sheriff, Mr. Marshall, Mr. Goodrich and there were some of these gentlemen I didn't know and you.

Q. What about the other defendants?

A. The other defendants were present, all four of them were there.

Q. Where was that statement made?

A. On the fourth floor in Mr. Marshall's room.

Q. Do you know whether or not the Court Reporter was present when that statement was made?

A. He was.

Q. At that time did you or did any one in your presence make any promise to induce the defendant Izell Chambers or any of the defendants to make a statement?

A. No sir.

Q. At that time did you or any one in your presence use any violence or make any threats or in any manner coerce the defendant, Izell Chambers, or any of the other defendants to talk?

A. No sir.

Q. If a statement was made at that time by Izell Chambers or any of the other defendants, was such a statement made freely and voluntarily upon their part so far as you know?

A. Yes sir.

Q. Do you remember about what time of the day it was when you arrived at the court house on that Sunday morning?

A. Well, I came up Saturday afternoon about dark I would say, sundown, but I left about 2:30 and went back to Pompano and got another Negro and then about 4 o'clock I went back again with one of these defendants to show us where the pocket book was—where the money was—and I stayed there until around six o'clock I guess, until it got light enough where I could search the room and came back about 6:30.

II

Your petitioners further represent that the transcript of the record now before the Court, page 58, shows that the petitioners were arrested in Pompano, Florida, on Sunday night May 14, 1933, and rushed to the Broward County Jail. Walter Woodard was awakened from his bed by an officer who hit him on the bottom of his feet with a club, flashed his [fol. 394] light and ordered the prisoner to get up and go with him. Upon inquiry as to what it was all about, the prisoner was told: "Its no time to mess around here—because if the mob gets you, you will know what it is." They rushed him out without his shoes and trotted him to a car that they had waiting out there. He was kept in that jail from the time of his arrest that night until he was convicted and sent to Raiford for electrocution, without any shoes. J. T. Williams a 200 pounder, would stamp on his bare feet when he was questioned during the whole week, in an endeavor to make him confess to the crime. When this pri-

soner asked for his shoes he was told that he did not need any shoes. Woodard told Captain Williams that the concrete was cold in the jail but his captor paid no attention to him.

Jack Williamson says (Tr. p. 48): "I was crazy, I didn't know what I was saying, I was crazy as a result of the treatment they had given me. I don't remember what I said because they had told me to say it and carried me over it." On the morning when Jack Williamson plead guilty, Captain Williams appeared at his cell and wanted to know if they were going to stick to their confessions. He warned them that if they did not stick to the confessions of guilt that they had signed, they would be lynched. Captain Williams followed them into the court room that morning and was there present at the time of the arraignment to see that they did stick to their confessions of guilt. Attorney Mather told the petitioners that feeling was running high in Broward County against them. Attorney Griffis (Tr. p. 147) did not tell the petitioners whether they should plead guilty or not. He refused to advise them what to do and your petitioners did not know what to do. They were all strangers in that section, young, ignorant and wholly inacquainted with court procedure.

Your petitioners further showeth unto the Court that their stories were corroborated by Attorney Griffis who says that he was informed by Captain Williams that one of the petitioners wanted to change his plea from not guilty to guilty, and your petitioners further showeth unto the Court that the Court apparently overlooked the testimony of Prince Douglas, a state's witness who testified (Tr. p. 174) to the fact that Captain Williams and others who obtained these alleged illegal confessions were kept awake by feeding them sandwiches and coffee all night Saturday night May 20, 1933, until these alleged confessions were obtained [fol. 395] the next morning about 6 o'clock. Captain Williams testified that he questioned them for a week, as much as he could stay awake.

III

Your petitioners are advised and believe that if the testimony against them by their attorneys W. C. Mather and Elbert B. Griffis, should be considered by the Court it will be in effect to force these petitioners to testify against themselves, in violation of their Constitutional rights not to so testify.

Your petitioners further represent that the Trial Judge did not know that Capt. J. T. Williams or anyone had threatened and coerced them into signing the confessions of guilt and the Court did not know and was not advised that Capt. Williams had called at the jail where the prisoners were confined on the morning of their arraignment, and told them if they changed their pleas of guilty in court on the morning of their arraignment, they would be lynched and your petitioners were afraid to advise the Court on account of threats by Capt. J. T. Williams and said pleas were made only through fear of being lynched; that your petitioners did not tell their attorneys about this because the Court never told them that it had appointed any attorneys to assist your petitioners in their defense and petitioners did not know that said attorneys had been appointed by the Court and were wholly without knowledge that said Mather and Griffis were attorneys until and except upon their own representations, about thirty minutes before their arraignment and pleas of guilty, and it was for that reason they were afraid to discuss their cases with the said attorneys freely, before the pleas of guilty were entered.

WHEREFORE your petitioners pray this Honorable Court to reconsider its judgment affirming the death sentences in this cause and to vacate the same and grant unto your petitioners a new trial so that said petitioners may be tried upon the merits of this cause.

And your petitioners will ever pray.

(S.) Sidney J. Catts, Jr., John Ziegler, S. D. McGill, Wm. S. Robinson, Attorneys for Petitioners.

[fol. 396]

REHEARING DENIED

On the 11th day of April, 1939, the Supreme Court of Florida issued its denial of the petition for rehearing, filed herein.

[fol. 397]

MANDATE FROM SUPREME COURT, THE STATE OF FLORIDA

To the Honorable, the Judge of the Circuit Court for the Fifteenth Judicial Circuit of Florida, Greeting:

Whereas, Lately in the Circuit Court of the Fifteenth Judicial Circuit of Florida, in and for the County of

Broward in a cause wherein Isiah (Izell) Chambers, Jack Williamson, Charlie Davis and Walter Woodward (Woodard), were Petitioners and State of Florida was defendant, the judgment of said Circuit Court was rendered Nov. 14, 1936 as by the inspection of the transcript of the record of the said Circuit Court which was brought into the Supreme Court of the State of Florida, by virtue of a writ of error agreeably to the laws of said State in such case made and provided, fully and at large appears:

And Whereas, at the January Term of said Supreme Court holden at Tallahassee, A. D. 1939, the said cause came on to be heard before the said Supreme Court on the said transcript of the record and was argued by counsel; in consideration whereof, on the 3rd day of March A. D. 1939, it was considered by said Supreme Court that the said Judgment of the Circuit Court be and the same is hereby affirmed; it is further ordered by the Court that the Defendant in Error do have and recover of and from the Plaintiff in Error its costs by it in this behalf expended, which costs are taxed at the sum of — Dollars; therefore,

You Are Hereby Commanded, That such further proceedings be had in said cause as according to right, justice, the judgment of said Supreme Court, and the laws of the State of Florida, ought to be had, the said Judgment of the Circuit Court notwithstanding.

Witness, The Honorable Glenn Terrell, Chief Justice of said Supreme Court, and the seal of said Court at Tallahassee, this 22nd day of March, A. D., 1939.

G. T. Whitfield, Clerk Supreme Court of Florida, by
Ella O'Niell, Deputy Clerk. (Seal.)

[fol. 398] IN SUPREME COURT OF FLORIDA

[Title omitted]

PETITION FOR STAY OF EXECUTION

Come Now, Isiah (Izell) Chambers, Jack Williamson, Charlie Davis and Walter Woodward (Woodard) petitioners in the above entitled cause, by their undersigned attorneys, and petition this Honorable Court for a stay of execution and enforcement of the judgment rendered by this Court on the 3rd day of March, A. D. 1939, for a period of

ninety (90) days from said date, or until further order of this Court, and these petitioners respectfully represent that they desire to apply for a writ of certiorari to the United States Supreme Court, to review the records and proceedings in this Court in this case, and these petitioners further represent that said stay of execution and enforcement of said judgment is necessary in order to perfect said appeal by means of certiorari from this Court to the United States Supreme Court.

McGill & McGill, by S. D. McGill, Attorneys for Petitioners.

[fol. 399]

IN SUPREME COURT OF FLORIDA

[Title omitted]

ORDER STAYING EXECUTION

This Cause coming on this day to be heard upon motion of petitioners in the above entitled cause for a stay of the execution and the enforcement of the judgment rendered by this Court in said cause on March 3, 1939, for a period of ninety (90) days from said date, or until the further order of this Court, and it appearing to the court that these petitioners desire to apply for a writ of certiorari to the United States Supreme Court to review the records and proceedings in this cause, and it appearing that a stay of the execution and enforcement of said judgment rendered by this Court on said date is necessary in order that said petitioners may perfect an appeal by means of certiorari from this Court to the United States Supreme Court and the said petition having been duly presented to this Court and the Court being fully advised in the premises, it is upon consideration thereof,

Ordered, Adjudged and Decreed that a stay of execution and enforcement of said judgment rendered by this Court in said cause March 3, 1939, be and the same is hereby stayed for a period of ninety (90) days from March 3, 1939, or until further order of this Court.

Done and Ordered in Chambers in Tallahassee, Leon County, Florida, this 20th day of April, A. D. 1939.

(S.) Glenn Terrell, Judge.

[fol. 400] IN SUPREME COURT OF FLORIDA
[Title omitted]

PRAECIPE FOR TRANSCRIPT OF RECORD

The Clerk of the Above Styled Court will please prepare for us as counsel for the petitioners herein the following papers, to-wit:

1. Copy of the transcript of the record filed herein in the Supreme Court of Florida, filed February 25, 1937.
2. Copy of the opinion of the Supreme Court filed March 3, 1939.
3. Copy of petition for rehearing filed herein.
4. Recite denial of petition for rehearing.
5. Copy of mandate of this Court.

McGill & McGill, by S. D. McGill, Counsel for Petitioners,

[fol. 401] Clerk's Certificate to foregoing transcript omitted in printing.

[fol. 402] SUPREME COURT OF THE UNITED STATES

ORDER ALLOWING CERTIORARI—Filed October 23, 1939

The petition herein for a writ of certiorari to the Supreme Court of the State of Florida is granted.

And it is further ordered that the duly certified copy of the transcript of the proceedings below which accompanied the petition shall be treated as though filed in response to such writ.

Mr. Justice Butler took no part in the consideration and decision of this application.

Endorsed on cover: In forma pauperis. File No. 43,602. Florida Supreme Court. Term No. 195. Isiah (Izell) Chambers, Jack Williamson, Charlie Davis and Walter Woodward (Woodard), Petitioners, vs. The State of Florida. Petition for a writ of certiorari and exhibit thereto. Filed July 11, 1939. Term No. 195, O. T., 1939.

MICRO CARD

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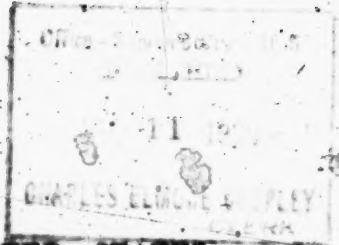
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SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1939

No. 195

**ISIAH (IZELL) CHAMBERS, JACK WILLIAMSON,
CHARLIE DAVIS AND WALTER WOODWARD
(WOODARD),**

Petitioners,

vs.

THE STATE OF FLORIDA.

**PETITION FOR WRIT OF CERTIORARI TO THE
SUPREME COURT OF THE STATE OF FLOR-
IDA AND BRIEF IN SUPPORT THEREOF.**

**LEON A. RANSOM,
S. D. MCGILL,
THURGOOD MARSHALL,**
Counsel for Petitioners.

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SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1939

No. 195

**ISIAH (IZELL) CHAMBERS, JACK WILLIAMSON,
CHARLIE DAVIS, AND WALTER WOODWARD
(WOODARD),**

Petitioners,

vs.

THE STATE OF FLORIDA.

PETITION FOR WRIT OF CERTIORARI.

To the Honorable the Supreme Court of the United States:

Your petitioners, Isiah (Izell) Chambers, Jack Williamson, Charlie Davis and Walter Woodward (Woodard), respectfully show:

A.

Summary Statement of the Matter Involved.

1. PRESENT STATUS OF THE CASE.

Petitioners, Isiah (Izell) Chambers, Jack Williamson, Charlie Davis and Walter Woodward (Woodard), are now confined in the State penitentiary in the State of Florida under sentence of death for murder. Petitioners are all

young, destitute and ignorant Negroes, charged with and convicted for the murder of one Robert Dorcey, a white man, in June, 1933. At the arraignment, May 24, 1933, petitioners Jack Williamson and Walter Woodward (Woodard) pleaded guilty to the indictment and petitioners Charlie Davis and Isiah (Izell) Chambers pleaded not guilty. The court (the Circuit Court of Broward County, Florida) set their trial for June 12, 1933. On that date petitioner Charlie Davis, under circumstances that will hereafter more fully appear, entered a plea of guilty, and the petitioner Isiah (Izell) Chambers was immediately put upon trial and convicted of murder in the first degree, the confession hereinafter referred to, and the testimony of the three other petitioners being used against him. On June 17, 1933 the Circuit Court of Broward County, Florida passed sentences of death upon all four of your petitioners herein.

The date of execution was fixed for August 4, 1933, but a writ of error was sued out to the Supreme Court of Florida, which, on December 19, 1933, affirmed the judgment and sentences of the Circuit Court of Broward County (see *Chambers, et al. v. State of Florida*, 151 So. 499). The petitioners were not represented by counsel in the Supreme Court of Florida upon the said writ of error as will more fully appear from the text of the opinion: Thereafter, upon petition properly presented, the Supreme Court of Florida permitted petitioners to file their applications in the Circuit Court of Broward County, Florida, praying the trial court to issue a writ of error *coram nobis* (*Chambers, et al. v. State of Florida*, 152 So. 347). The application for a writ of error *coram nobis* came on to be heard before the Honorable George W. Tedder, Judge of the Circuit Court of Broward County, Florida, April 20, 1934. On May 2, 1934, the application was denied by said court and from this order denying the issuance of a writ of error *coram nobis* a writ

of error was sued out in the Supreme Court of Florida, which held that the issues were triable by a jury and reversed and remanded the decision of the trial court (*Chambers, et al., v. State of Florida*, 158 So. 153). Thereafter this cause came on to be heard again upon the issues joined before a jury on February 21, 1935, resulting in a verdict and final judgment in favor of the respondent herein. From this final judgment a further writ of error was sued out in the Supreme Court of the State of Florida, and which, for manifest error, reversed and remanded the judgment of the trial court (*Chambers, et al., v. State of Florida*, 167 So. 697).

On October 12, 1936, the cause came on to be heard again, and upon proper representations and proceedings, was transferred from the Circuit Court of Broward County to the Circuit Court of Palm Beach County, Florida, resulting in a verdict and final judgment thereon in favor of the respondent herein. From this final judgment a writ of error was sued out to the Supreme Court of Florida, which on March 3, 1939, did affirm said judgment, and did, thereafter, upon the 11th day of April, 1939, after consideration, deny petitioners' application for a rehearing therein.

2. SALIENT FACTS.

Robert Darcey, a white man, was murdered in Pompano, Florida, a small town in Broward County, Florida, about twelve miles from Fort Lauderdale, on Saturday night, May 13, 1933 about nine o'clock. Some twenty-five or thirty Negroes of the vicinity were arrested on that night and the following day, Sunday, May 14, 1933, on suspicion. All of them were later released except your petitioners herein. Feeling among the citizens of Broward County ran high and there was talk of mob violence. Captain J. T. Williams, a convict guard, who had no official connection with the officers of Broward County, and who appears to be a volunteer, and

Sheriff Clark, of the County, removed Isiah (Izell) Chambers, and Jack Williamson, two of the petitioners herein, to Miami, in Dade County, eighteen miles away, for protection. They were brought back to Fort Lauderdale to the Broward County jail the next day, however, Tuesday, May 16, where they all signed confessions on May 21, 1933, and, on May 22, 1933, were jointly indicted with the other two petitioners, Walter Woodward (Woodard) and Charlie Davis, being charged with the murder of Robert Darcey.

In support of their assignments of error that the confessions were not freely and voluntarily given, but were extorted by torture and violence, and that they were denied the benefit of counsel, all in violation of the equal protection and due process clauses of the Fourteenth Amendment to the Constitution of the United States, petitioners adduced the following evidence at the hearing herein:

Jack Williamson testified in substance that he was awakened on Sunday night, May 14, 1933, about 11 or 12 o'clock by Sheriff Bob Clark, Chief Maddox and some three or four other men (R. 15). He and the other three petitioners were handcuffed and taken to a car to which a fourth man was chained and the five of them were taken to the Fort Lauderdale jail (R. 16). The officers made them trot to the car because they said they were dodging a mob which was after the petitioners (R. 16). Upon Williamson's arrival at the jail he was taken into a room where Chief Maddox sat him in a chair, stuck a pistol in his neck and Bob Clark hit him with a pistol (R. 17). About daylight he was again taken to this room where J. T. Williams (a man weighing approximately 230 or 240 pounds) struck him with a loaded bicycle tire, knocking him out of the chair, cursing him and kicking him when he attempted to arise (R. 17). He was walked to different parts of the jail many times during that day and after dark and after that

they were taken to the jail at Miami (R. 18). They had no knowledge of where they were being taken until Sheriff Clark told a speed cop who stopped them that he was taking some Negroes to Miami to escape a mob (R. 19-20). When they reached Miami, J. T. Williams told them to "take that light son-of-a-bitch and put him in one of the death cells" (R. 20). He was returned to the Broward County jail about 2 A. M. the following morning (R. 20). About two hours after his return to Broward County he was taken from his cell and J. T. Williams again beat him over the head with the loaded bicycle tire and with his fist (R. 21). Captain Williams told him it wasn't what he wanted to say but what they told him to say (R. 22). He was walked back and forth and severely beaten all night (R. 22). He didn't sleep any that night (R. 22). The next morning he read in the paper that Frank Manuel and Mack Little had confessed to the crime (R. 22). Thursday he was taken from his cell in the morning and again in the afternoon, beaten and knocked out of the chair. Williams said, "Don't you know that some nigger has got to die for this and we just as soon it be you as any one. All we got to do is blow a long whistle and the whole mob of Pompano will be here for you in a few minutes" (R. 23). They came for him again that night and beat him and knocked him unconscious (R. 23). About daylight Thursday morning they again beat him in an effort to make him say that he knew Charlie Davis. Friday morning he denied knowing Charlie Davis and was terribly beaten (R. 23-24). Friday and Saturday he was again beaten. They walked him back and forth and beat him off and on all day Saturday (R. 24). Again he was beaten into unconsciousness (R. 24). They continued to beat him off and on and finally got a grass rope, tied it around his neck and pulled him up, beating him all the while until he was unconscious, snatching him up and telling him what to say. He couldn't remember what it was they

wanted him to say and three times this procedure was repeated (R. 25). He could hear the other prisoners yelling and he could hear the licks given them but couldn't see them (R. 25). This was continued all the week (R. 25). Then he was taken to a room across the hall where Captain Williams and the jailer had Charlie Davis, Walter Woodward, Izell Chambers and some other men whom he didn't know (R. 26). He made the desired confession because he was sure they were going to kill him; they had told him they would kill him (R. 27). The confession was made about sunrise Sunday morning (R. 27). He didn't enter a plea of guilty when he was brought into court though he had been told to do so (R. 28). Sheriff Clark and Captain Williams went to his cell early that morning and told him when the Judge asked him if he was guilty he had better say yes (R. 28). Prince Douglas, one of the trustees, visited his cell and gave him some salve to put on the places where he was cut on the back of him head where Captain Williams had hit him. Douglas put some of the salve on his head (R. 29). The wounds made by Captain Williams on Thursday night and by Bob Clark on the night he was arrested were exhibited to the jury (R. 29). Sheriff Clark inflicted a Y-shaped scar on his head (R. 30). He didn't make any confession on the night of his arrest (R. 33). He said what they told him to say about sunrise Sunday morning (R. 38). He doesn't remember now what he said because he had been carried over it many times (R. 39-40). Off and on all day Sunday Sheriff Clark and Captain Williams came to his cell and rehearsed what he was to say (R. 41). J. T. Williams did most of the beating and tied the rope around his neck (R. 43). The rope was thrown through a crack to a bar on one side and he was swung up on it (R. 43). He didn't know Charlie Davis until he met him in jail at Fort Lauderdale (R. 44). His lawyer, W. C. Mather, told him there wouldn't be any use of him giving any names (of

witnesses to prove his innocence) because they wouldn't be allowed to take the stand (R. 46).

Walter Woodard testified that at the time of his arrest he was in bed where he had been since 9 that night (R. 49). He was awakened by being tapped on the feet with a club. He was trotted out to the car without shoes and taken with five others to the Broward County Jail (R. 50). Monday afternoon he was taken before Captain Williams, Mr. Marshall the jailer, Sheriff Clark and three other men (R. 51). He was told he was lying when he said he knew nothing of the homicide and that he would have to come straight (R. 51). He was taken out several times during the week and questioned and was struck every time he went down except the first (R. 51). Sometimes his feet were stamped and he was kept without shoes the whole time, even sent to Raiford without shoes. Whenever he stated that he knew nothing of Charlie Davis or the crime, Captain Williams would stamp his feet (R. 52). He was told he didn't need shoes for the trial and was forced to walk on the cold concrete in his bare feet (R. 52). On the night of the 20th of May he was beaten (R. 53). He was stamped and brutally beaten with a club which left a scar in his side (R. 53). He was told that Jack had "come across" and he should do likewise (R. 53). He was taken out several times during the night of the 20th, and around 2 A. M., was told if he wanted to live until sunrise, it would be better to come across because Williamson had said he was one of the boys in it, but he still denied it. Captain Williams drew his gun to his head and told him if he said another time he was not there and that he did not have a part in the crime, he would kill him and throw him out of the window (R. 54). He—Captain Williams—was crying. He said that Woodard had told lies and kept him sitting up all the week and he was tired (R. 55). Mr. Clark got between Woodard and Captain Williams and Captain Williams said, "You had better take him out of here, if you

don't I will kill him" (R. 55). Captain Williams told him if he didn't confess, he would take him out to West Dixie (R. 55). Woodard agreed to say "what they wanted him to say," and the State's Attorney was sent for about one or two o'clock Saturday night (R. 55). He didn't have anything to tell Mr. Maire but realized that if he didn't tell him something, Captain Williams might kill him since he had been threatening his life all that week (R. 55). The statements he gave Mr. Maire he was told were no good and Mr. Maire tore his notes up and told Captain Williams when he got something he would come back; that it was late and he had to go back and go to bed (R. 56). Captain Williams then put the grass rope around his neck and strangled him saying that if he wasn't going to tell the truth he was going to kill him (R. 56). A second time the rope was put around his neck and twisted, strangling him. Captain Williams swearing at the time that he would kill him if he didn't say he was present (R. 57). He agreed and was taken into the room where the confessions were to be taken (R. 57). The Sheriff, J. T. Williams, Walter Clark, Mr. Maire and the deputy Clerk were all in the room awaiting the confession (R. 57). He was not represented by counsel. Counsel had been appointed but only told him to plead guilty (R. 58). Before he was taken into the court room, Walter Clark and Captain Williams came to his cell and asked him if he was going to stick to what he said, adding that if he tried to change his statement in the court room he wouldn't live until the next morning because the majority of the people in Pompano were from Georgia and believed in mob violence and they would lynch all niggers; he would turn the keys over to them (R. 59). He didn't know he had an attorney until he was informed that his attorney's name was Mr. Mather and that he had been appointed to represent him (R. 59). Mr. Mather told him the sentiment of the people of Broward County was highly against him and the best

thing he could do was to go down and plead guilty (R. 59). He confessed because he weakened under the torture and strain (R. 71). The record in the case shows that no lawyer was appointed (R. 72). During the several days between the time of his confession and Izell Chambers' trial, Captain Williams continued to threaten him, telling him what the consequences would be if he went before the jury and changed his statements (R. 73). He did not tell his lawyer about the torture through which he had gone because he had only a ten minutes' talk with him before he was brought before the Judge and was instructed by him to plead guilty and get out of the court room as soon as possible because of the sentiment of the people of that county (R. 74).

Charlie Davis testified that he was preparing for bed when Chief Maddox came to his room, told him to stand back and began searching (R. 77). He was taken to the small jail in Pompano. On Sunday morning he was taken by Sheriff Clark to the Broward County jail (R. 77). He fell asleep on a small steel bunk with no mattress and was awakened by someone kicking him (R. 77-78). He was questioned by a large man who knocked him under the bunk, when told he didn't know what he was talking about. He was knocked senseless (R. 78). The man who struck him, he later learned, was Captain Williams. The following morning he and another prisoner were tied together and taken to the jail at Fort Lauderdale (R. 79). Tuesday or Wednesday, Captain Williams and another officer hit him, the other officer striking him in the same place twice (R. 82). Later in the day he was taken to Pompano, double handcuffed to Captain Williams (R. 82). He was questioned and told he was lying when he said he didn't know anything about the other boys. Captain Williams told him he was going to know something before it was over (R. 83). Later that night he was knocked off the chair and kicked by Walter Clark when he denied knowing anything about

the other prisoners (R. 83). He was told that a mob was after him and he would be shot and made to jump out of the window (R. 83). He was beaten by Mr. Clark and told that he hadn't started. He was hit one time with a black jack (R. 83). On Saturday night Captain Williams asked Davis if he knew who he was. Davis replied that he never saw him before until he came in and beat him up. Captain Williams ordered him not to say that any more (R. 84). He told Davis that he was foreman of a chain gang camp and nobody "excuses" his word. He kicked him and told him he was going to take him to West Dixie and a man accompanying Captain Williams hit him in the same place he had been hit before with a rubber hose (R. 85). He was then at the point where he would have said anything to avoid further punishment (R. 85). Captain Williams was the man who did most of the beating (R. 85). Captain Williams started to put a rope around his neck but didn't because some one else came in (R. 86). But he told him he was going to string him up like he had done some others who were in jail (R. 86). He was threatened all Saturday night and didn't get any sleep (R. 87). Captain Williams had the prosecuting attorney come over and when he left he hit Davis and told him if he didn't say what he wanted him to say he wouldn't see daylight the next morning. Davis agreed to say what he wanted him to say, if he wouldn't hit him again or give him to the mob, which he had been told was outside (R. 87). Davis made his confession the next morning because he was told by Captain Williams that if he didn't he would either kill him himself or give him to the mob (R. 89). When he was being taken from the court room by the jailer, Captain Williams hit him and he again promised to say what he had been told (R. 90). He was afraid of Captain Williams most of all because he had beat him unmercifully (R. 91). His beatings began about 2:30 the night of the arrest (R. 93). For a week he was

questioned, kept without sleep and beaten every night (R. 95).

Izell Chambers testified that he was awakened about 11 o'clock on the night of May 14, 1933 and arrested along with three other men (R. 112). He was taken to the fourth floor of the jail at Fort Lauderdale and Virgil Wright and Chief Maddox began beating him (R. 112). On Monday night he was taken to Miami because, as he was told, a mob of fifty cars filled with men was waiting to take the lives of the petitioners (R. 113). They were taken down the fire escape and through the back of the jail (R. 113). Captain Williams said they deserved lynching (R. 113). At about 12 or 1:30 that night they were taken back to the Broward County jail and the beating was resumed (R. 114). He was told by Captain Williams that they had seen his witnesses and they told the same story he told, but they were not going to accept it (R. 115). Then they began beating him again and threatening to kill him or turn him over to the mob. He didn't get any sleep (R. 115). He showed a scar and several bruises which he said he received as a result of the beatings (R. 115). They told him he had kept them up all week and caused them to lose their sleep but they were not going to stay up another night messing with him (R. 116). He was going to confess the truth Saturday night or they would kill him or turn him over to a mob (R. 116). Captain Williams beat him, kicked him; struck him on his knees, causing them to bleed and said he would rather kill him himself than let the mob have him (R. 117). Chambers told them if they wouldn't kill him he would say 'anything they wanted him to say' (R. 117). At about 5:30 Mr. Maire came in to take what he said (R. 118). He didn't plead guilty before the Judge. Captain Williams asked him why he didn't plead guilty and upon being told that he was innocent Captain Williams told Mr. Marshall they had better take him away from there before

he killed him (R. 119). He was taken to the Miami jail and kept there for about two weeks (R. 119).

IV.

The respondent offered evidence in opposition to the petitioners' claim that the confessions were illegally obtained in substance as follows:

A. D. Marshall, the jailer, said that he was present on that Saturday night and did go and get the prisoners whenever the Sheriff told him and bring them up for questioning (R. 306). They began questioning the petitioners along about 4 o'clock Saturday afternoon. They took a recess about 6 (R. 306). Captain Williams was there all of the time when questions were asked the petitioners (R. 313-314).

Hon. Louis Maire, State's attorney, testified that he was called over to the jail that Sunday morning about 2:30. He left the jail about 3 o'clock A. M., and got some sleep and came back again at 6:30 Sunday morning, when these confessions were signed (R. 265). Walter Woodard is corroborated at this point by Mr. Maire because Woodard says that Mr. Maire refused to accept his first story that he told him in the office that morning about 3 o'clock. Mr. Maire tore his first story up and told Captain Williams that the story was no good and when they got something out of Woodard he would come back; that it was late and he had to go back and go to bed (R. 56).

Sheriff Clark's testimony in substance shows that these confessions were not freely and voluntarily given. When asked how many hours the defendants could have had sleep that night when these confessions were made, the Sheriff said:

"Q. How many hours sleep did they have the opportunity to get that night?

"A. They could have slept all night, except I would say three hours, two hours and a half or three hours.

"Q. What was the reason for bringing them out and having them returned to the cell and then later bringing them out again?

"A. Because I would question one of them, and he would tell me some story about where he was at on Saturday night, and put him back in the cell and check on that and find out that he wasn't there, he was telling me a lie about it, and then bringing him out and we would question him again, I tell him I checked on the last story he told me, tell him I checked on it, and he would tell me a different story about where he was at and what he was doing on Saturday night" (R. 276).

Again the Sheriff says that during the night's questioning he would lie down and take a nap after having some sandwiches and coffee (R. 277).

Prince Douglas, the additional State witness, testified for the first time in this case. He said he was a cook in the Broward County Jail on the Sunday morning, May 21, 1933, when these alleged confessions were made (R. 160). That he served sandwiches and coffee to Sheriff Clark and others including Captain J. T. Williams, the convict guard, all night Saturday night (R. 161). He began to serve these officers and others present in the jailer's office on the third floor of the jail about 8:30 Saturday night, and continued all night until those confessions were obtained the next morning about daylight. The petitioners were brought in at different intervals all night, questioned and cross-questioned by those to whom the cook served sandwiches and coffee (R. 163).

But, aside from the fact that the confessions relied upon for the conviction and sentencing of the petitioners herein were extorted by torture and brutality, a graver and more serious denial of due process of law (assuming for the purposes of argument that there can be one graver) appears in the fact that petitioners were denied the benefit of counsel in a proceeding in which their very lives were at stake.

The question of the appointment of counsel for defendants charged with a capital offense, when they are unable to employ counsel of their own, is a serious one. All of the authorities hold, apparently, that the accused should have the assistance of counsel before arraignment in court. Accused should have the opportunity to employ counsel of his own choosing before one is appointed, but in no case should he be arraigned to plead to a capital offense without the court has appointed counsel to represent him if he has none and is not able to employ one. In this case it is definitely settled by this record that no counsel was ever appointed by the court to represent petitioners. The nearest approach to the appointment of counsel will be found in the transcript where Mr. Griffis says that he first knew that he was to represent certain of the defendants when Judge Tedder met him on the streets and told him that he had appointed him and Mr. Mather to represent certain of the defendants. Which two of the defendants he was to represent he did not know and Judge Tedder did not tell him. Mr. Griffis says that he never talked with his clients or saw them before the day they were arraigned, May 24, 1933 (R. 137). He had notice only the day before of his appointment (R. 137-138). He learned from the Clerk whom he was to represent; the judge never told him (R. 138). Charlie Davis, one of the petitioners Attorney Griffis represented, pleaded Not Guilty at the arraignment. A day or so later, however, Charlie Davis changed his plea from Not Guilty to Guilty without ever having consulted his attorney, and strangely enough, the attorney never knew that the client wanted to change his plea until Captain Williams, the convict guard volunteer, came to his office and told him that his client wanted to change his plea (R. 139).

W. C. Mathers was told by Judge Tedder, according to his testimony, some ten (10) days before the indictment of the defendants that he wanted him to represent two of the

defendants (R. 190). Mr. Mather did not know which two of the defendants he was to represent and the Judge had not told him (R. 192).

A mere reading of the testimony of both of these lawyers shows that they were not appointed by any court or so that they could definitely know whom they were to represent and certainly they were not appointed in time to seasonably consult with their clients in order to prepare any sort of defense as contemplated by the statutes of Florida and the Constitutions of the State of Florida and of the United States in such cases. The defendants had a constitutional right to consult with their attorneys and unless the attorneys knew definitely whom they were to represent and the clients knew definitely who their lawyers were, and in time to seasonably prepare for the pleas and trials, they were denied the constitutional rights guaranteed them under the Fourteenth Amendment to the Constitution of the United States.

B.

Reasons Relied on for the Allowance of the Writ.

1. The conviction of petitioners upon confessions and pleas of guilty extorted by violence and torture, both of which were obtained by agents and officers of the State of Florida while acting in their official capacities, is a denial of the equal protection and due process of the law guaranteed by the Fourteenth Amendment to the Constitution of the United States.

2. The failure to give petitioners opportunity to employ counsel of their own, and the appointment of counsel (if such there was) who failed to seasonably and properly consult with and advise petitioners of their rights in the premises and to adequately represent them in the proceedings below is a denial to the petitioners herein of the due process

of law guaranteed them and each of them by the Fourteenth Amendment to the Constitution of the United States.

Each of the above questions were seasonably and properly raised in the trial court below and both the Circuit Court of Palm Beach County, Florida and the Supreme Court of the State of Florida denied the Federal questions involved. Petitioners have exhausted their remedies in the state courts of the State of Florida.

In support of the foregoing grounds of application your petitioners submit the accompanying brief setting forth in detail the precise facts and arguments applicable thereto. Petitioners further state that this application is not filed for the purposes of delay.

Wherefore your petitioners pray that this Court, pursuant to United States Judicial Code, Section 237b, as amended by Act of February 13, 1925, 43 Stat. 937, issue a Writ of Certiorari to revise the judgment of the Supreme Court of the State of Florida, affirming the decision of the Circuit Court of Palm Beach County, Florida, dismissing your petitioners' application for a writ of error *coram nobis*, as aforesaid.

All of which is respectfully submitted this 11th day of July, 1939.

ISIAH (IZELL) CHAMBERS,

JACK WILLIAMSON,

CHARLIE DAVIS, and

WALTER WOODWARD (WOODARD),

Petitioners.

By LEON A. RANSOM,

1512 Girard St., N. E.,

Washington, D. C.

S. D. MCGILL,

610 W. Duval St.,

Jacksonville, Fla.

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1939

No. 195

ISIAH (IZELL) CHAMBERS, JACK WILLIAMSON,
CHARLIE DAVIS AND WALTER WOODWARD
(WOODARD), *Petitioners,*
vs.

THE STATE OF FLORIDA.

**BRIEF IN SUPPORT OF THE PETITION FOR WRIT
OF CERTIORARI.**

I.

Opinion of the Supreme Court of Florida.

The opinion of the Supreme Court of the State of Florida has not been officially reported. A certified copy thereof is found in the record, pages 350-360. A Motion for Re-hearing was denied in a memorandum opinion appearing in the record, p. 360.

II.

1.

Jurisdiction.

The statutory provision is United States Judicial Code, Section 237b, as amended February 13, 1925, 43 Stat. 937.

2.

The date of judgment is March 3, 1939, on which date the Supreme Court of the State of Florida affirmed the order and judgment of the Circuit Court of Palm Beach County, Florida, denying petitioners' application for a writ of error *coram nobis* (R. 381-389). A petition for rehearing was filed and denied on April 11, 1939 (R. 360, 367).

3.

That the nature of the case and the rulings below bring the case within the jurisdictional provisions of Section 237b, *supra*, appears from the following:

A.

The petitioners herein specifically raised a Federal question in their assignments of error in this cause (R. 1) which was denied by the respondent. Where convictions and sentences of death rest solely upon confessions shown to have been extorted from prisoners by the officers having them in charge such acts violate the Fourteenth Amendment to the Constitution of the United States in that it denies the petitioners their rights thereunder. The claim of constitutional rights was also raised by petitioners specifically at the trial in this cause, and the trial court in overruling petitioners' motion for a new trial expressly recognized and passed upon such Federal question (R. 329). Again the Federal questions were specifically raised in this cause when the case was taken to the Supreme Court of Florida by Assignment of Error, No. 12 (R. 334). The Supreme Court of Florida duly considered and passed upon the Federal question adversely to the petitioners, as will more fully appear from the opinion of the court (R. 351). The claims that were made by your petitioners and denied by the State courts are:

That they were denied the due process of law and the equal protection of the law by the Circuit Court of Broward County guaranteed by the Fourteenth Amendment to the Constitution of the United States in that:

(a) They were not given a fair, impartial and deliberate trial;

(b) They were denied the right of counsel with the accustomed incidents of consultation and preparation for arraignment and trial as provided by law;

(c) The alleged confessions of petitioners were obtained by force and duress and were inadmissible as such;

(d) The pleas of guilty were likewise made under such circumstances as to render them illegal and insufficient, being entered shortly after their extra-judicial confessions, illegally obtained only a short time before said pleas were entered.

4.

The following cases, among others, sustain the jurisdiction of the court:

Powell v. Alabama, 287 U. S. 45, established that the failure to give reasonable time to secure counsel to ignorant and illiterate youths charged with a crime punishable by death is a denial of due process and the assignment of counsel at such a time and under such circumstances as to preclude the giving of effective aid is a denial of due process of law. See also, *Strauder v. West Virginia*, 100 U. S. 303; *Neal v. Delaware*, 103 U. S. 370; and *Brown v. Mississippi*, 297 U. S. 278, all of which are authority for the view that the duty of maintaining constitutional rights of a person on trial for his life transcends mere rules of procedure. And in *Johnson v. Zerbst*, 304 U. S. 456, it was stated that the denial of constitutional rights to the accused person deprives the trial court of jurisdiction.

In *Brown v. Mississippi, supra*, it was held that the use of confessions obtained by coercion, brutality and violence as a basis for convictions and sentences constituted a denial of due process. See also, to the same effect, *Moore v. Dempsey*, 261 U. S. 86, and *Powell v. Alabama, supra*.

III.

Statement of the Case.

Robert Darcey, a white man, was murdered in Pompano, Florida, a little town in Broward County, about twelve miles from Fort Lauderdale, on Saturday night, May 13, 1933, about nine o'clock. There were some 25 or 30 Negroes arrested on suspicion and put in jail that same night and the following day, Sunday, May 14, all of whom were later discharged except the four petitioners herein.

Feeling among the citizens of Broward County ran high and there was talk of mob violence. Captain J. T. Williams and Sheriff Clark took no chance and on Monday, May 15, 1933, they took Izell Chambers and Jack Williamson, two of the petitioners herein, to Miami in Dade County, eighteen miles away, for protection. They were brought back to Fort Lauderdale to the Broward County jail the next day, however, Tuesday, May 16, where they all signed confessions May 21, 1933, and on May 22, 1933, were jointly indicted with the other two petitioners, Walter Woodward and Charlie Davis, charged with the murder of Darcey.

When these petitioners were arraigned in court two days later, May 24, 1933, Jack Williamson and Walter Woodward pleaded guilty to the indictment while Charlie Davis and Izell Chambers pleaded not guilty to the indictment and the court set their cases for trial June 12, 1933. At the trial June 12, 1933, the State's Attorney stated to the court that all of the defendants had pleaded guilty to the indictments except Izell Chambers, who was immediately tried

and convicted of murder in the first degree, the confession signed by him May 21, 1933, being used in evidence against him, and the other three defendants testifying against him also. On June 17, 1933, the court passed sentences of death upon Izell Chambers, who had been tried and found guilty, and on the other three defendants who had pleaded guilty to the indictments.

A day was fixed by the Governor of the State for the executions, but on August 4, 1933, the Supreme Court of Florida issued its writ of error to the Circuit Court of Broward County, Florida, and upon a review of the case thus made upon said writ of error, the judgments were affirmed December 19, 1933 (*Chambers et al., v. State of Florida*, 151 So. 499). The petitioners were not represented by counsel in the Supreme Court upon the said writ of error, as will more fully appear from the text of the opinion.

Later, upon petition duly presented, the Supreme Court of Florida allowed petitioners to file their applications in the Circuit Court of Broward County, Florida, praying the trial judge to issue a writ of error *coram nobis* (*Chambers et al. v. State of Florida*, 152 So. 347).

The petitioners then filed their application before the trial judge for the issuance of a writ of error *coram nobis*, which said petition came on to be heard before the Honorable George W. Tedder, Judge of the Circuit Court of Broward County on April 20, 1934, and on May 2, 1934, the application for the writ of error *coram nobis* was denied by order of said judge and from the order denying the petitioners' application for the writ of error *coram nobis*, a writ of error was sued out in the Supreme Court of the State of Florida (*Chambers et al. v. State of Florida*, 158 So. 153).

The cause being reversed, and issue again being joined therein, the matter came on for trial another time on February 21, 1935, resulting in a jury verdict adverse to petitioners and a subsequent final judgment on said verdict.

From this final judgment a further writ of error was sued out and upon consideration thereof said final judgment was reversed. (*Chambers et al. v. State of Florida*, 167 So. 697).

On October 12, 1936, issue having again being joined in this cause and the same having been transferred by proper proceedings from the Circuit Court of Broward County, Florida, to the Circuit Court of Palm Beach County, Florida, the matter again came on for trial. At this hearing the verdict of the jury was returned against the petitioners herein and later a final judgment was entered thereon in accordance with said jury verdict. Error was again prosecuted to the Supreme Court of the State of Florida, which, on March 3, 1939, affirmed the judgment of the Circuit Court of Palm Beach County, Florida, and, on April 11, 1939, denied a petition for rehearing therein.

This petition for certiorari is based upon the said final judgment of the Supreme Court of the State of Florida and its denial of a rehearing thereon (R. 350 *et seq.*).

The majority opinion of the said Supreme Court of the State of Florida held in substance that the confessions of guilt made by the petitioners out of court were legally obtained and that the trial court properly considered the same as evidence in fixing the death sentences. The opinion further holds that the petitioners had the assistance of counsel at and before the trial. The dissenting opinion by Mr. Justice Brown, however, follows the principles of law heretofore laid down by this Honorable Court.

IV.

Conceded Facts.

While, as the Supreme Court of the State of Florida says (R. 351-352), the evidence as to the method of obtaining the confessions is in hopeless conflict, the following facts are either conceded, admitted or not denied:

1. The trial court never formally appointed Attorneys Griffis and Mather to represent petitioners and the records nowhere show any such appointment.

2. Such assignment of counsel as was made was made over telephone and on the streets of Fort Lauderdale, Florida; and the petitioners knew nothing about it at the time the pleas were entered before the court. The trial judge did not know which two of your petitioners Attorney Mather was to represent and Mather never saw his clients until a few minutes before they were arraigned in court to plead to the indictments. He had no time to consult seasonably with his clients even if the court had told him whom he was to represent. Attorney Mather never knew these clients had confessed to the crime charged in the indictment until after they had pleaded guilty (R. 138). The confessions were obtained from the accused under such circumstances that they were rendered illegal and should never have been admitted in evidence against them.

3. The petitioners, ignorant youths, unaccustomed to court procedure, needed the assistance of the court and it was the inescapable duty of the court to safeguard their rights and liberties. Yet the court failed and refused to appoint any attorneys for them under such circumstances that they could definitely know who these attorneys were and be guided by their counsel. An appointment on the streets or over the telephone, out of open court, and out of the presence of the petitioners furnished them with no knowledge that any counsel had been appointed to protect their rights, liberties and persons. The record shows that the petitioners in entering these pleas of Guilty were without the benefit of counsel, they being unable to employ one and the court having failed to advise them of the appointment of competent counsel for them. Obviously after the pleas of Guilty were entered it was too late to advise petitioners

of this fact, for then nothing remains for the State to do except impose sentence. Even then these attorneys failed and refused to make a motion for a new trial and to permit the petitioners to withdraw their pleas of Guilty and enter pleas of Not Guilty, as is the usual practice in such cases. And that is all that petitioners have asked in their many appearances before the State courts and before this Court—to be permitted to withdraw their pleas of Guilty, improperly and inadvisedly entered, and to plead Not Guilty to the indictments herein and to be tried on the merits of the case.

4. Captain Williams, who is charged with most of the brutal treatment of the petitioners, resulting in their confessions and pleas of Guilty, could not be found to give testimony in the case at bar. When the Supreme Court of Florida had before it this same question in a previous trial of the issues here involved, it said (*Chambers et al. v. State of Florida*, 167 So. 697): •

“Even if the jury totally disbelieved the testimony of the petitioners, the testimony of Sheriff Walter Clark, and one or two of the other witnesses introduced by the state, was sufficient to show that these confessions were made only after such constantly repeated and persistent questioning and cross-questioning on the part of the officers and one J. T. Williams, a convict guard, at frequent intervals while they were in jail, over a period of about a week, and culminating in an all night questioning of the petitioners separately in succession throughout practically all of Saturday night, until confessions had been obtained from all of them, when they were all brought into a room in the jailer's quarters at 6:30 Sunday morning and made their confessions before the State Attorney, the officers, said J. T. Williams, and several disinterested outsiders, the confessions, in the form of questions and answers being taken down by the court reporter, and then typewritten.

"Under the principles laid down in *Nickels v. State*, 90 Fla. 659, 106 So. 479; *Davis v. State*, 90 Fla. 317, 105 So. 843; *Deiterle v. State*, 98 Fla. 739, 124 So. 47; *Mathieu v. State*, 101 Fla. 94, 133 So. 550, these confessions were not legally obtained."

At the time of that opinion the court had before it the testimony of Captain Williams. In the present trial the Sheriff of Broward County was unable to explain his absence. It is strange indeed that the Sheriff entrusted the petitioners in the care and custody of this man Williams for a week, permitting him to brutally beat and abuse them and force them into a confession of the crime, and yet, when the court, as in this case, is making an inquiry into the manner in which these confessions were obtained, the Sheriff can neither locate Williams upon subpoenas issued by the petitioners and the State, nor explain his absence nor deny in any way the grave charges heaped upon his agent.

ARGUMENT.

I.

The conviction of petitioners solely upon confessions and pleas of guilt extorted by violence and torture, both of which were obtained by officers and agents of the State of Florida while acting in their official capacities, is a denial of the equal protection and due process of the law guaranteed by the Fourteenth Amendment to the Constitution of the United States.

In discussing this question of law we have decided to abandon the testimony of the petitioners and rely solely upon the evidence adduced by the state's own witnesses to show that these confessions were illegally obtained and improperly introduced as evidence against these petitioners.

A. D. Marshall, the jailer, said that he was present on that Saturday night and did go and get the prisoners whenever the Sheriff told him and bring them up for questioning

(R. 306). They began questioning the petitioners along about 4 o'clock on Saturday afternoon. They took a recess about 6 o'clock (R. 306). Captain Williams was there all the time when questions were asked of the petitioners (R. 313-314).

Hon. Louis Maire, State's Attorney, testified that he was called over to the jail that Sunday morning about 2:30. He left the jail about 3 o'clock A. M., and got some sleep and came back again about 6:30 Sunday morning, when these confessions were signed (R. 265). *Walter Woodward* is corroborated at this point by Mr. Maire because Woodward says that Mr. Maire refused to accept his first story, the one that he told him in the office that morning about three o'clock. Maire tore his first story up and told Captain Williams that the story was no good and when they got something out of Woodward he would come back; that it was late and he had to go back and go to bed (R. 56).

Sheriff Clark's testimony shows, in substance, that these confessions were not freely and voluntarily given. When asked how many hours the defendants could have slept that night when the confessions were made, the Sheriff said:

"Q. How many hours sleep did they have the opportunity to get that night?

"A. They could have slept all night, except I would say three hours, two hours and a half or three hours.

"Q. What was the reason for bringing them out and having them returned to the cell and then later bringing them out again?

"A. Because I would question one of them, and he would tell me some story about where he was at on Saturday night, and put him back in the cell and check on that and find out that he wasn't there, he was telling me a lie about it, and then bring him out and we would question him again, I tell him I checked on the last story he told me, tell him I checked on it, and he would tell me a different story about where he was at and what he was doing on Saturday night" (R. 276).

Again the Sheriff says (R. 277) that during the night's questioning he would lie down and take a nap after having some sandwiches and coffee. It is highly significant that the officers charged with the questioning of these petitioners throughout the eight days before their confessions, and particularly on the last night when the alleged confessions were obtained, could not survive the ordeal without refreshment and rest and yet are eager to testify that the petitioners showed no signs of suffering from the ordeal despite the denial to them of the same opportunities for recovery. And the failure of the Sheriff to know what Captain Williams did to the petitioners in the way of brutal treatment on that fateful Saturday night may well be explained by the fact that the Sheriff was not with Williams all of the time, in that he was asleep (R. 277).

From the above and other evidence introduced by the state's own witnesses, it must be concluded, as the Supreme Court of Florida has heretofore concluded in this same cause (*Chambers et al. v. State of Florida*, 167 So. 697), that the confessions were not legally obtained. The present refusal of the Supreme Court of Florida to override the determination of a jury to the contrary, in view of its former unequivocal pronouncement, smacks soundly of a devotion to form rather than to substance in law, and of a willingness to sacrifice fundamental human rights upon the altar of cant.

It follows, of course, that if these confessions were obtained by duress and force, and that the petitioners were intimidated by threats and torture, the pleas of Guilty entered in open court immediately thereafter, and while still under the shadow of that force, have no greater validity than the confessions themselves.

"There is another rule of law, and it has its foundation in justice, and that is, that when a confession has, in the first place, been made under illegal influences,

such influences will be presumed to continue and color all subsequent confessions, unless the contrary is clearly shown."

Coffee v. State, 25 Fla. 501, 511, 6 So. 493, 496.

Not only is there no evidence to the contrary to overcome this presumption, but there is ample evidence on the part of petitioners to show that the illegal influences persisted right down to the moment of the arraignment, the so-called "Captain" Williams threatening some of the petitioners with turning them over to lynchers if they changed their stories (R. 59).

The Supreme Court of Florida has repeatedly held that a plea of guilt entered under such circumstances should be set aside and a new trial granted.

"... The motion to set aside the judgment and sentence of death and to withdraw the plea of guilty and enter a plea of not guilty and proceed to trial thereon at once may be treated either as an extraordinary application for new trial or as an application for writ of error *coram nobis*; our conclusion being that the judgment brought in question was void and could have been reached by either motion.

"The evidence as to whether the plea of guilty was entered through fear, duress, misunderstanding, or improper influence is about as conflicting as it is possible for it to be. This court is on record as holding that such a motion is one addressed to the sound discretion of the trial court but subject to review by the appellate court. *Pope v. State*, 56 Fla. 81, 47 So. 487, 16 Ann. Cas. 972.

"In the last cited case, we said in substance that the law favors trials on the merits and that a plea of guilty to a serious criminal charge should be freely and voluntarily made and entered by the accused without a semblance of coercion and without fear or duress of any kind. It is possible that the plea of guilty in this case was entered freely and voluntarily and without a sem-

blance of coercion but, when such a plea is entered as here by an ignorant young man charged with a capital offense and the evidence on that point is in hopeless conflict, it raises a very strong suspicion that some undue influence contributed to the plea. When such a case is duly presented, the better practice is to permit the plea of guilty to be withdrawn and proceed to trial on a proper plea. . . ."

Casey v. State, 156 So. 283.

See also, *Nickels v. State*, 86 Fla. 288, 99 So. 121.

The conclusion seems inevitable that the method of obtaining the confessions herein under discussion and the subsequent pleas of guilty, while petitioners were still under the influence of fear of further torture, and their use in the sentencing of the petitioners herein, all violate the fundamental principles of due process and have been repeatedly condemned by this Court as denying the protection guaranteed by the Constitution of the United States.

See:

Hopt v. People of Utah, 110 U. S. 574, 4 S. Ct. 202, 28 L. Ed. 262;

Sparf v. U. S., 156 U. S. 51, 15 S. Ct. 273, 39 L. Ed. 343;

Pierce v. U. S., 160 U. S. 355, 16 S. Ct. 321, 40 L. Ed. 454;

Brown et al., v. Mississippi, *supra*;

Moore v. Dempsey, *supra*.

II.

The failure to give petitioners opportunity to employ counsel of their own, and the appointment of counsel (if such there was) who failed to seasonably and properly consult with and advise petitioners of their rights in the premises and to adequately represent them in the proceedings below is a denial to the petitioners herein of the due process of the law guaranteed them and each of them by the Fourteenth Amendment to the Constitution of the United States.

In Florida the rule is well established that :

“When a petitioner is brought to the bar for arraignment to inquire of the accused whether he had counsel to represent him, and if upon inquiry, it developed that he had no attorney and was unable to employ one to ask the accused whether he desired one to represent him. If he was unable to employ counsel and signified his desire to be represented by one, then it has been the practice for the Trial Judge to appoint some attorney to represent the accused. This practice is in accord with the letter and spirit of Section 11 of the Bill of Rights and Section 3969 of the General Statutes of Florida, 1906.”

Cutts v. State of Fla., 45 Fla. 491.

This Court has stated the rule even more broadly :

“In the light of the facts outlined in the forepart of this opinion—the ignorance and illiteracy of the defendants, their youth, the circumstances of public hostility, the imprisonment and the close surveillance of the defendants by the military forces, the fact that their friends and families were all in other states and communication with them necessarily difficult, and above all they stood in deadly peril of their lives—we think the time and opportunity to secure counsel was a clear denial of due process.”

Powell v. Alabama, 287 U. S. 45, 71 (1932).

Petitioners in this case have, we think, clearly shown that they had no opportunity to secure counsel. Immediately after their arrests, on May 14, 1933, in company with some thirty other Negroes, they were rushed to various jails, apparently for safekeeping from threatened mob violence, and were continuously questioned, beaten and mistreated for one week, without being allowed the benefit of counsel or communication with friends outside the jails.

It is conceded that Messrs. Mather and Griffis, the two lawyers assigned to represent the petitioners, were com-

municated with privately, one over the telephone and the other on the streets, and advised of their appointments. Petitioners were not asked by the court if they had or desired counsel of their own choosing. The assignment of counsel was not made in open court and at a time when counsel could be of assistance to petitioners at the arraignment and trials. No opportunity was provided for consultation with the accused to determine the advisability of procedure to be followed. In fact, Mr. Mather did not know that a confession had been made by his clients until after the plea of guilty had been entered (R. 192-193). Neither counsel appears to have known his client until the morning of the arraignment (R. 138, 192-193), and one of them was subsequently informed by the convict guard, Williams, who is accused of the brutal extortion of the alleged confessions, that one of his clients intended to change his plea of Not Guilty to Guilty (R. 139). Nowhere does the record show that either of these counsel made any attempt to object to the introduction of the so-called confessions, move to withdraw the pleas of guilty, or make any other of the obvious motions to protect their clients, despite the suspicious circumstances surrounding the trials, other than to make a perfunctory argument for leniency (R. 139).

The right to the assistance of counsel is of fundamental importance. Without it the ignorant, inexperienced accused is at grave disadvantage. When a trial court becomes so derelict of its duty as to substantially deny this right to the accused, and when the counsel, improperly appointed, fails and refuses to give to the accused such protection as he is capable of invoking then there has been a substantial denial of due process and the trial court has lost its jurisdiction and the entire proceedings are null and of no effect.

Johnson v. Zerbst, supra.

Conclusion.

Equal protection and due process under the law are the pillars upon which our democracy rests. A denial of these to the humblest of our citizens is a threat to the liberties of all. Lives and liberties must be taken only in accordance with those established modes of procedure which have been tried and tested by time. If the experience of our centuries of the common law has demonstrated that trial and conviction by honest testimony, openly arrived at, is better than and preferable to confessions extorted by the methods of the Inquisition and to decisions made in the Star Chamber, without benefit of counsel, then it is respectfully submitted that the questions raised in this petition call for the exercise by this court of its supervisory powers to the end that rights guaranteed under the Constitution of the United States and recognized by all civilized nations shall be preserved.

LEON A. RANSOM,
S. D. MCGILL,
THURGOOD MARSHALL,
Counsel for Petitioners.

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SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1939

No. 195

ISIAH (IZELL) CHAMBERS, JACK WILLIAMSON,
CHARLIE DAVIS AND WALTER WOODWARD
(WOODARD), *Petitioners,*

v.

THE STATE OF FLORIDA.

ON WRIT OF CERTIORARI TO THE SUPREME COURT OF THE STATE
OF FLORIDA.

BRIEF FOR RESPONDENT

GEORGE COUPER GIBBS,
Attorney General;

TYRUS A. NORWOOD,
Assistant Attorney General;
Council for Respondent.



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SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1939

No. 195

**ISIAH (IZELL) CHAMBERS, JACK WILLIAMSON,
CHARLIE DAVIS AND WALTER WOODWARD
(WOODARD),**

Petitioners,

vs.

THE STATE OF FLORIDA.

**ON WRIT OF CERTIORARI TO THE SUPREME COURT OF THE STATE
OF FLORIDA.**

BRIEF FOR RESPONDENT

Opinion Below

The opinion of the Supreme Court of Florida from which this writ of certiorari was granted was reported in 187 So. p. 156, 136 Fla. 568. It appears in the record in this case at page 350. Other opinions of the Supreme Court of Florida out of which this case grew are reported in *Chambers v. State*, 111 Fla. 707, 151 So. 499; *Chambers v. State*, 111 Fla. 707, 152 So. 437; *Chambers v. State*, 117 Fla. 642, 158 So. 153; *Chambers v. State*, 123 Fla. 734, 167 So. 697.

Jurisdiction

This Court granted petition for certiorari on October 23, 1939.

Statement of the Case

Robert Darsey, a white man, was murdered in Pompano, Florida, a little town in Broward County, on Saturday night, May 13, 1933. In attempting to find the murderer, some twenty-five or thirty negroes were arrested on that night and the day following. All of these negroes were later discharged except the four petitioners herein, who signed confessions about a week later, on May 21, 1933. (R. 256-258.)

On May 22, 1933, these petitioners were indicted for murder in the first degree, and the court appointed counsel to represent them. See testimony of Elbert B. Griffis, (R. 133-140) and testimony of W. C. Mather (R. 187-194).

After the petitioners had talked with their counsel, Williamson and Woodward plead guilty and Davis and Chambers pled not guilty. Later, Davis changed his plea to guilty and was tried for murder in the first degree and found guilty without recommendation to mercy. There was stipulation of counsel that the court should consider testimony in the *Chambers* case in determining whether or not the petitioners were entitled to mercy. This practice is perfectly proper in the Florida courts. See *McCall v. State*, 185 So. 608, 135 Fla. 712. The court thereupon sentenced all of the petitioners to death, and they appealed. However, no transcript of record was filed but a petition for writ of *habeas corpus* was filed in the Supreme Court. See *Chambers v. State*, 151 So. 499, 111 Fla. 707. The court denied the petition for writ of *habeas corpus*, but directed that the transcript of record be pre-

pared and filed in the Supreme Court by the State Attorney. This was done and after an examination thereof, the case was affirmed. The court held that the record showed the following:

"The testimony is to the effect that the four convicted defendants plotted the robbery of an aged man, Robert M. Darsey; that Darsey was waylaid in the nighttime and beaten to death, robbed, and left in the roadway to die; that the money was apportioned among some of the defendants; that all were present when the murder and robbery was committed. This testimony was by the defendants themselves, three of whom pleaded guilty and asked the mercy of the Court." *Chambers v. State*, 151 So. 499, 500, 111 Fla. 707.

Thereafter, a petition for writ of error *coram nobis* was filed in the Supreme Court in which it was alleged that the confessions upon which the petitioners were convicted were not freely and voluntarily made but were made as a result of coercion and fear. See *Chambers, et al., v. State*, 152 So. 437, 111 Fla. 707. The court granted the petition for leave to file the writ of error *coram nobis* in the Circuit Court, which was presented to the Circuit Court and denied. Thereupon, another writ of error was taken to the Supreme Court. See *Chambers v. State*, 158 So. 153, 117 Fla. 642, where the court reversed the Circuit Court on the ground that the petition should have been granted and the facts should have been tried by a jury. The court, in this case, rendered a very exhaustive study on writ of error *coram nobis*. Thereafter, the case was remanded, and issues were made up on the following assignments of error *coram nobis*:

"1. That the confession and pleas filed at the trial of these petitioners and which form the basis of the judgments and sentences herein complained of were

not in fact freely and voluntarily made by these petitioners.

2. That the confessions and pleas filed at the trial of these petitioners and which formed the basis of the judgments and sentences herein complained of were in fact, obtained (fol. 2) from these petitioners by force, coercion, fear of personal violence and under duress." (R. 1.)

The case was tried before a jury who found against the petitioners, and another appeal was taken. See *Chambers v. State*, 167 So. 697, 123 Fla. 734. The Supreme Court again reversed the Circuit Court on the ground that the court had improperly instructed the jury. Thereafter, the case was tried again in the Circuit Court on the same assignments of error *coram nobis*, and the jury again found against the petitioners, and the case was appealed. See *Chambers v. State*, 187 So. 156, 136 Fla. 568. The judgment in this case was affirmed, and it is from this order that this Court granted certiorari.

The court will see from the assignments of error (R. 1) that this case is not before it on an appeal from an order of conviction but one on certiorari from an order of the Supreme Court of Florida, affirming a judgment of a lower court, which held that the verdict of the jury finding against the petitioners on a question of whether or not the confessions were freely and voluntarily made, and were not made as a result of coercion or fear was proper, and the only record before the court is one made in the trial of the writs of error *coram nobis*, and not in the one upon which the petitioners were convicted of murder. We, therefore, doubt that there is any question properly before the court since the record in this case conclusively shows, as was found by the Circuit Court in the order overruling the motion for new trial and the Supreme Court affirming the

lower court, that there is ample evidence to support the verdict of the jury against the petitioners.

The petitioners have attempted to raise also the question that they are being deprived of their life without due process of law, because they were not allowed counsel. This Court clearly cannot pass upon this question because this was not one of the issues which the jury tried (R. 1), but if it could pass upon this question, the record conclusively shows that the petitioners were represented by counsel appointed by the court. This attack was thrown into the case as an afterthought when the case of *Powell v. State of Alabama*, reported in 287 U. S. 45, was decided by this Court.

In the brief of petitioners, under Section four thereof, which is headed Conceded Facts, certain statements are made which the State of Florida does not concede as true. The record in the case in which these petitioners were convicted is not before the court, yet the record which is before the court shows that Elbert B. Griffis and W. C. Mather, attorneys of long practice before the bar of the State of Florida, were appointed by the court to represent the petitioners and did confer with them before the arraignment, before the trial and during the trial (R. 133-187). The record also shows that the father of Davis, one of the petitioners, sent an attorney from Miami to talk with them about the case (R. 104).

The case is therefore resolved into one on a question of fact. The petitioners only stated that they were mistreated before the conviction and that the confessions were made as a result of coercion and fear. This was categorically denied by many witnesses of the State, and the physical facts as will later be pointed out, corroborate this denial.

Summary of Argument

I.

This Court will not reverse the judgment of the Supreme Court of Florida sustaining the verdict of the jury finding that the confessions of the petitioners were freely and voluntarily made and were not made as a result of coercion or fear, since the evidence conclusively supports the verdict of the jury.

II.

The State court has decided and held that were the allegations in the assignments of error *coram nobis* proven, then petitioners would be entitled to the relief prayed; petitioners were given this opportunity and they failed to prove them, therefore, denied petitioners relief. This does not constitute a denial of due process of law.

III.

This Court has no jurisdiction to consider the question of whether or not the petitioners were denied due process of law by reason of alleged lack of counsel to represent them in the original trial since this issue was not raised in the assignments of error *coram nobis*, but if this Court does have jurisdiction to consider this question, the record conclusively shows that petitioners were represented by counsel to meet all requirements of due process of law.

ARGUMENT

I. This Court will not reverse the judgment of the Supreme Court of Florida sustaining the verdict of the jury finding that the confessions of the petitioners were freely and voluntarily made and were not made as a result of coercion or fear, since the evidence conclusively supports the verdict of the jury.

The issues before the lower court were as follows:

"1. That the confessions and pleas filed at the trial of these petitioners and which form the basis of the judgments and sentences herein complained of were not in fact freely and voluntarily made by these petitioners.

"2. That the confessions and pleas filed at the trial of these petitioners and which formed the basis of the judgments and sentences herein complained of were in fact, obtained (fol. 2) from these petitioners by force, coercion, fear of personal violence and under duress."

Therefore, the only question before this Court is whether or not the petitioners proved the allegations of these assignments. If they did, then they are entitled to relief; if they did not, as the courts of Florida held, then they are not entitled to relief. We call the court's attention that a confession to be admissible in the State of Florida need not be spontaneous.

"It is not essential to the admissibility in evidence of an extrajudicial confession that it be the spontaneous utterance of the accused." *Davis v. State*, 90 Fla. 317, 105 So. 843. *Nickels v. State*, 90 Fla. 659, 106 So. 479. *Nowling v. State*, 99 Fla. 367, 126 So. 766.

The petitioners all testified that they made these confessions after being threatened, beaten and coerced (see R. 14-120, inclusive), and if this was all the evidence in the case, undoubtedly the petitioners would be entitled to relief. However, the State's testimony categorically contradicts all

these statements. See the testimony of the lawyers appointed to represent them (R. 133-141, inclusive, and 187-194, inclusive). The lawyers testified that they talked with the petitioners the day after the confessions were made and before they were arraigned and they asked them specifically whether or not the confessions were freely and voluntarily made and whether or not they had been coerced or beaten in order to force the confessions, and that petitioners said that they were not; that they did not see any evidence of any fresh scars or wounds on the bodies of the petitioners. The testimony of the prisoners in jail at the time the petitioners were alleged to have been beaten was all to the effect that although they were in close communication with the petitioners at the time they alleged they were beaten, they never saw any fresh marks or bruises or blood on any of them. See testimony of Frank Manuel (R. 141-148), James Little (R. 149-150), Willie Henderson (R. 153-159), Prince Douglas (R. 159-168), Lonnie Jackson (R. 168-169), Mack Little (R. 170-171), and Eddie Hamilton (R. 176-181). It is inconceivable that of all the persons in jail at that time that the petitioners, through their diligent counsel, could not have obtained some witnesses to testify as to the inhuman treatment which the petitioners alleged they were subjected to, if, in truth, they were subjected to any duress or torture.

B. B. Johnson (R. 181-182) testified that he saw the petitioners at the time the confessions were made and he did not see any signs upon any visible part of their bodies of either of them of any fresh scars or beatings or blood upon their bodies or clothing. He described their appearance as normal. W. F. Ford (R. 185-186), a carpenter, testified that although three of the petitioners did not have their shirts on at the time of these confessions that he did not see any evidence of any bruises on their bodies.

The Honorable Lewis F. Maire (R. 255-262), testifies that he saw petitioners when the confessions were made; that he warned the petitioners of their constitutional right before they gave their confessions and that all appeared to be in normal physical condition; that none of them had any fresh bruises, cuts, abrasion or anything of that description on their bodies so far as he could see and that they made the confessions freely and voluntarily.

The sheriff, Walter R. Clark (R. 265-293) and his deputies, Robert L. Clark (R. 244-247), A. D. Marshall (R. 294-316) all categorically deny the testimony of the petitioners.

Even the petitioner, Charlie Davis (R. 97), testifies that he was only questioned about five times during the entire week. These confessions, when they were first introduced, were determined by the trial court to have been made freely and voluntarily as this is his duty. See *Jeffcoat v. State*, 103 Fla. 466, 138 So. 385, *Kirby v. State*, 44 Fla. 81, 32 So. 836. When these confessions were allowed to be introduced in evidence and their admission was then questioned in the proceeding on writ of error *coram nobis*, the question of whether or not they were freely and voluntarily made was one for the jury. See *Chambers v. State*, 117 Fla. 642, 158 So. 153. Here the jury has decided this first question against the petitioners and we submit that this Court will not interfere on this question of fact since there is ample evidence in the record to support the verdict. The rule on this proposition is stated in *Hughes Federal Practice, Jurisdiction & Procedure*, Vol. 5, Sec. 3235, p. 326-327, as follows:

"That the Supreme Court, at least in an action at law, has no jurisdiction to review the decision of the highest court of a state upon a pure question of fact, although a federal question might or might not be presented, according to the way in which the question of fact was decided, is clearly settled by a number of decisions.

"If, however, the finding of the state court, denying the asserted federal right has no support in the record, the jurisdiction of the Supreme Court is clear.

"Conversely, the court has said:

"It is not the province of this court to weigh conflicting testimony. The record shows testimony supporting the verdict, and that is as far as this court enters upon a consideration of that question."

"The rule is thus settled that the decision of a state court upon a question of fact ordinarily cannot be made the subject of inquiry in the Supreme Court of the United States."

The rule is also well settled that

"The Supreme Court in an action at law at least has no jurisdiction to review the decisions of the high court of the state upon a pure question of fact, although a Federal question would or would not be presented according to the way in which the question of fact was decided."

Lewis v. Campau, 3 Wall. 106, (U. S.), *In Re Buchanan*, 158 U. S. 31, *Smiley v. Kansas*, 196 U. S. 447, *Great Northern R.R. Co. v. Donaldson*, 246 U. S. 121.

II. The State Court has decided and held that were the allegations in the assignments of error coram nobis proven, then petitioners would be entitled to the relief prayed; petitioners were given this opportunity and they failed to prove them, therefore, denied petitioners relief. This does not constitute a denial of due process of law.

As the court will see from the argument on the previous question, the sole question before the court is whether or not the confessions were freely and voluntarily made or whether they were made as a result of coercion or fear. These issues have been decided in the proper procedure against the petitioners. There is no denial of due process

of law under these facts. The petitioners alleged and stated facts, which, if true, would allow the judgments of guilt to be set aside, and they were given an opportunity to prove the alleged facts; however, the jury to which the question was presented, decided against them. The court in denying a motion for a directed verdict (R. 318) and in denying the motion for a new trial (R. 330), decided this question against them. The Supreme Court of the State of Florida in affirming the judgment of the lower court found against the petitioners. The petitioners have had every process of law in order to correct the error, if one was made, and how then can this Court say that there is a denial of due process of law just because the petitioners say there is, when the record shows otherwise? If this case presented a question of denial of due process of law, then every case in which a jury decides a disputed question of fact presents a question of denial of due process of law. One might be sued on a note, he pleads and proves that he did not make the note and the plaintiff proves that he did make the note, and the jury finds for the plaintiff, this settles the question and this Court would not, under such a state of facts, take jurisdiction to determine whether or not the defendant did actually make the note. The verdict of the jury would settle this question as here the jury has settled the question of the method of the making of these confessions. There is surely evidence in the record to prove that these confessions were freely and voluntarily made, and were not made as the result of any coercion, apprehension, promise or fear; for this Court to reverse the judgments of the courts of Florida, it would have to substitute its own judgment on the question of fact for that of the jury, the Circuit Court and the Supreme Court of Florida. As was said by this Court in the case of *Frank v. Mangum*, 237 U. S. 309 on page 334:

“To do this, as we have already pointed out, would be not merely to disregard comity, but to ignore the es-

sentential question before us, which is not the guilt or innocence of the prisoner, or the truth of any particular fact asserted by him, but whether the State, taking into view the entire course of its procedure, has deprived him of due process of law. This familiar phrase does not mean that the operations of the state government shall be conducted without error or fault in any particular case, nor that the Federal courts may substitute their judgment for that of the state courts, or exercise any general review over their proceedings, *but only that the fundamental rights of the prisoner shall not be taken from him arbitrarily or without the right to be heard according to the usual course of law in such cases.*

"We of course agree that if a trial is in fact dominated by a mob, so that the jury is intimidated and the trial judge yields, and so that there is an actual interference with the course of justice, there is, in that court, a departure from due process of law in the proper sense of that term. And if the State, supplying no corrective process, carries into execution a judgment of death or imprisonment based upon a verdict thus produced by mob domination, the State deprives the accused of his life or liberty without due process of law.

"But the State may supply such corrective process as to it seems proper. Georgia has adopted the familiar procedure of a motion for a new trial followed by an appeal to its Supreme Court, not confined to the mere record of conviction but going at large, and upon evidence adduced outside of that record, into the question whether the processes of justice have been interfered with in the trial court. Repeated instances are reported of verdicts and judgments set aside and new trial granted for disorder or mob violence interfering with the prisoner's right to a fair trial. *Myers v. State*, 97 Georgia 76 (5), 99; *Collier v. State*, 115 Georgia, 803." (Italics ours.)

and further on p. 338:

"*The Georgia courts, in the present case, proceeded upon the theory that Frank would have been entitled to this relief had his charges been true, and they re-*

*fit*ed a new trial only because they found his charges untrue save in a few minor particulars not amounting to more than irregularities, and not prejudicial to the accused. There was here no denial of due process of law." (Italics ours.)

Have not the petitioners in this case been accorded every fundamental right according to the usual course of law in such cases? This case has been in the Supreme Court of Florida five times and the Florida courts proceed upon the theory that the petitioners would have been entitled to the relief had their alleged charges been true. They allowed the petitioners the usual mode of procedure to prove these charges, and the petitioners failed to meet this proof. Certainly, this can be no denial of due process of law.

In the case of *Howard v. Kentucky*, reported in 200 U. S. 64, the defendant appealed from a judgment of the Court of Appeals of Kentucky affirming a conviction and sentence of murder against him. One of the jurors was excused for cause and the case was appealed on the ground that the court denied the defendant due process of law because of unlawfully excusing the juror. The Court in denying such contention said on pages 172 and 173:

"He seems to make an issue with the Court of Appeals of the State upon the law of the State, and to contend that the court erred in the interpretation and application of that law. This contention encounters the ruling in *In re Converse*, 137 U. S. 624, 631, and other cases, which hold that a State cannot be deemed guilty of a violation of its obligations under the Constitution of the United States because of a decision, even if erroneous, of its highest court, while acting within its jurisdiction."

"We cannot assume error in the decision of the Court of Appeals. We accept it, as we are bound to do, as a correct exposition of the law of the State—common, statutory and constitutional. Our inquiry can only be, *did the state law as applied afford plaintiff in error due*

process as those words are used in the *'Fourteenth Amendment'*? We think it did. It is not necessary to enter into a lengthy discussion of what constitutes due process of law. That has been done in a number of cases and there is nothing in the present case which calls for a repetition and an extension of the discussion. It may be admitted that the words 'due process of law,' as used in the Fourteenth Amendment, protect fundamental rights. What those are cannot ever be the cause of much dispute. In giving them protection, however, it was not designed, as was observed by the Chief Justice in *In re Converse*, *supra*, 'to interfere with the power of the State to protect the lives, liberty and property of its citizens; nor with the exercise of that power in the adjudication of the courts of the State in administering the process provided by the law of the State.' " (Italics ours.)

In re Converse, 137 U. S. 624. This court in speaking on whether or not a defendant, who had confessed to embezzlement under one section of the Michigan law, could be convicted of such confession under another section of the law of that State, said: (pages 631-632)

"It is not our province to inquire whether the conclusion reached and announced by the Supreme Court was or was not correct, for we are not passing upon its judgment as a court of error, nor can we consider the contention that the decision was not in harmony with the state constitution and laws."

"The single question is whether appellant is held in custody in violation of the Fourteenth Amendment to the Constitution of the United States, in that the State hereby deprives him of liberty without due process of law; for there is no pretence of an abridgment of his privileges and immunities as a citizen of the United States, nor of a denial of the equal protection of the laws. But the State cannot be deemed guilty of a violation of its obligations under the Constitution of the United States because of a decision, even if erroneous, of its highest court, while acting within its jurisdiction."

And, conceding that an unconstitutional conviction and punishment under a valid law would be as violative of a person's constitutional rights as a conviction and punishment under an unconstitutional law, we fail to perceive that this conviction and judgment are repugnant to the constitutional provision. Appellant has been subjected, as all persons within the State of Michigan are, to the law in its regular course of administration through courts of justice, and it is impossible to hold that a judgment so arrived at is such an unrestrained and arbitrary exercise of power as to be utterly void.

"We repeat, as has been so often said before, that the Fourteenth Amendment undoubtedly forbids any arbitrary deprivation of life, liberty or property, and in the administration of criminal justice requires that no different or higher punishment shall be imposed on one than is imposed on all for like offences, but it was not designed to interfere with the power of the State to protect the lives, liberty and property of its citizens; nor with the exercise of that power in the adjudications of the courts of a State in administering the process provided by the law of the State. The Supreme Court of Michigan did not exceed its jurisdiction or deliver a judgment abridging appellant's privileges or immunities or depriving him of the law of the land of his domicile. *Arrowsmith v. Harmoning*, 118 U. S. 194, *Baldwin v. Kansas*, 129 U. S. 52; in *re Kemmler*, 136 U. S. 436."

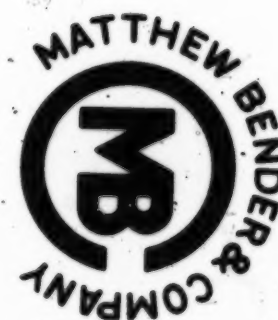
Thus, we see there is no Federal question involved in this case because the petitioners have not been treated any differently than other persons accused of crime in this State, would be treated. Every process of law has been held open to them and they have attempted to prove that their rights have been violated in this procedure, and have failed to do so. If there is any question of denial of due process of law in this case, then there is in every case in which a court decides that a confession was voluntary against the contention that it was not by the confessor, and the court will rea-

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lize that this is not the law. The question of whether or not a question is voluntary is one peculiarly for the State Court to pass upon and if this is passed upon according to the same rules and the same procedure as is done in other cases, then there can be no denial of due process of law regardless of whether or not the conclusion reached by the State Court was correct or not.

The Florida Courts that passed upon the contentions of petitioners had jurisdiction of the cause, and there is evidence in the record to sustain their decision. Thus, there was no denial of due process of law.

III. This Court has no jurisdiction to consider the question of whether or not the petitioners were denied due process of law by reason of alleged lack of counsel to represent them in the original trial since this issue was not raised in the assignments of error coram nobis, but if this Court does have jurisdiction to consider this question, the record conclusively shows that petitioners were represented by counsel to meet all requirements of due process of law.

This court plainly has no jurisdiction to entertain this question because it was not an issue in the case below. See petitioner's assignments of error on writ of *coram nobis*:

"Come now the petitioners in the above cause and say there is error in the judgments and sentences of this Honorable Court heretofore entered in this cause against these petitioners; that if the Court had known the facts as to how the confessions and pleas of guilt were obtained from these petitioners, said judgments and sentences never would have been entered by the Court. And for more specific assignments of error, these petitioners say:

"1. That the confessions and pleas filed at the trial of these petitioners and which form the basis of the judgments and sentences herein complained of were not in fact freely and voluntarily made by these petitioners.

"2. That the confessions and pleas filed at the trial of these petitioners and which formed the basis of the judgments and sentences herein complained of were in fact, obtained (fol. 2) from these petitioners by force, coercion, fear of personal violence and under duress.

"Wherefore, petitioners pray that the said judgments and sentences may be vacated and set aside and that these petitioners be placed back in the same condition as they were before such confessions and pleas were entered." (R. 1.)

There is no question raised by these assignments that petitioners were denied right of counsel or were not given a fair and impartial trial, so surely this Court will not pass upon this contention. The court will also see that questions were not raised under the Federal Constitution on these assignments, therefore, this Court does not have jurisdiction to pass upon the same. See *Baldwin v. Kansas*, 129 U. S. 52, Text 57, where this Court said:

"In *Spies v. Illinois*, 123 U. S. 131, 181, this court said in regard to a question of this kind:

'As the Supreme Court of the State was reviewing the decision of the trial court, it must appear that the claim was made in that court, because the Supreme Court was only authorized to review the judgment for errors committed there, and we can do no more.'

"Again:

'If the right was not set up or claimed in the proper court below, the judgment of the highest court of the State in the action is conclusive, so far as the right of review here is concerned.' "

And further on page 57:

"The question whether the evidence in the case was sufficient to justify the verdict of the jury, and the question whether the constitution of the State of Kan-

sas was complied with or not in the proceedings on the trial which are challenged, are not Federal questions which this court can review."

See also *Barrington v. Missouri*, 205 U. S. 483, where the appellant was contending that he was denied due process of law by reason of admissions in the testimony against him of certain of his admissions. "The defendant failed to object to the testimony on the ground that it violated any Federal right, and the court in refusing to pass on the question said on page 486:

"The suggestion came too late, and, moreover, Article V of the amendments, alone relied on, does not operate as a 'restriction of the powers of the State, but was intended to operate solely upon the Federal Government.' *Brown v. New Jersey*, 175 U. S. 172. And if, as decided, the admission of this testimony did not violate the rights of the plaintiff in error under the constitution and laws of the State of Missouri, the record affords no basis for holding that he was not awarded due process of law. *Howard v. Fleming*, 191 U. S. 126."

Certainly the court would not consider this question since it was not an issue in the lower court, and the State was not called upon to disprove this contention. However, the record in this case shows conclusively that the petitioners were represented by counsel before they were arraigned and during the trial. See testimony of Elbert B. Griffis (R. 133), who testified that he had been practicing law for eleven years at Ft. Lauderdale, Florida; that the court appointed him to represent Isiah (Izell) Chambers and Charlie Davis, two of the petitioners in this case; that he talked with them before they were arraigned and before the trial and inquired as to whether or not they had a defense, and also questioned them particularly as to whether or not the confessions that they were reported to have made were freely

and voluntarily made, or whether they had been subjected to any ill treatment, beatings, or coercion in order to force the confessions. See also the testimony of W. C. Mather (R. 187), who testified that he was appointed by Judge Tedder, Judge of the Circuit Court trying the men, to represent Williamson and Woodward, the other two petitioners, and who testified that he had been practicing law in Florida for about thirteen years; that he talked with the petitioners before their arraignment and trial, and that he explained to them fully the seriousness of pleading guilty to a murder charge, and also asked them about the confessions which they were reported to have made.

See also the testimony of Charlie Davis, one of the petitioners (R. 104), who testified that Mr. G. A. Worley, now State Attorney in Miami, came up to see them, while they were in jail, at the insistence of Davis's father. This surely shows that the petitioners were represented by counsel, and the Supreme Court of Florida in speaking on this question had this to say:

"It is also contended here that defendants were arraigned, and put on trial without the appointment of counsel to represent them or without the opportunity to confer with counsel before trial.

"This was not one of the issues before the jury and the record does not show a formal order of the trial court appointing counsel to represent defendants but it is shown that they were represented at the trial by able and experienced counsel who conferred with them before the trial. The fact that the record shows no formal order appointing counsel to represent them is not material but the better practice is that such an order should be shown." *Chambers v. State*, 187 So. 156, 158.

Three of the petitioners pled guilty and testified against Chambers, who did not plead guilty. There was no conten-

tion made that if allowed further time they could have prepared a defense to the case. A month elapsed from the time the crime was committed until the petitioners were tried, and more than two weeks from the time they were indicted and arraigned and tried. This case is very similar to that of *McCall v. State*, reported in 186 So. 510, 136 Fla. 317, where the Supreme Court of Florida on speaking of similar conditions said:

"We have in our opinion, *supra*, set out in detail what the record shows occurred at and concerning the trial. The record shows affirmatively that when the defendant appeared at the bar of the court with counsel previously appointed to represent him the trial judge asked the defendant and his counsel if they had any motions to present. Counsel replied in effect that they had no motions to present and were ready to proceed. When the State had introduced its evidence before the trial judge, upon being interrogated by his counsel, McCall stated that he had entered a plea of guilty to the indictment charging kidnaping to hold for ransom, and he reasserted that such was his plea. He then clearly, intelligently and deliberately told in detail every step of his perpetration of the crime charged. He made no contention that he was not guilty of the crime charged in the indictment, nor did he make any contention of any sort that if given all the time of the future he could prepare any defense to the charge then pending against him."

"Counsel appointed for him by the Court is recognized by this Court as an able, active and conscientious lawyer of many years of experience in the trial of criminal cases. We recognize the rule laid down in the cases of *Powell v. Alabama*, 287 U. S. 45, 53 S. Ct. 55, 77 L. Ed. 158, 84 A. L. R. 527, and *Johnson v. Zerbst*, as Warden, 304 U. S. 458, 58 S. Ct. 1019, 82 L. Ed. 1461, but we find that the rules stated in those cases have no application in the instant case because of the controlling differences in factual conditions."

As the court will see, the question of lack of representation by counsel was never before the lower court, and was never even injected into this case until after the decision of this Court in *Powell v. Alabama, supra*, and the facts in this case are totally different from those in the *Powell* case.

Conclusion

We, therefore, respectfully submit that the record in this case shows conclusively that the petitioners made their confessions freely and voluntarily, and that although they were given an opportunity to prove that they made their confessions through fear, coercion and torture, they failed to do so; that the court who tried this issue had jurisdiction to try the same and that its conclusion was correct, but even if it should have been erroneous, would not constitute a denial of due process of law since there is evidence to support the conclusions; that the question of whether or not the petitioners were represented by counsel is not properly before this Court. However, the record shows that they were properly represented by counsel and that the record in this case fails to show any question of the violation of the due process clause of the Constitution of the United States.

Respectfully submitted,

GEORGE COUPER GIBBS,
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TYRUS A. NORWOOD,
Assistant Attorney General of Florida,
Attorneys for Respondent.

SUPREME COURT OF THE UNITED STATES.

No. 195.—OCTOBER TERM, 1939.

Isiah (Izell) Chambers, Jack Williamson, Charlie Davis and Walter Woodward (Woodard), Petitioners,
vs.
The State of Florida.

On Writ of Certiorari to
the Supreme Court of
the State of Florida.

[February 12, 1940.]

Mr. Justice BLACK delivered the opinion of the Court.

The grave question presented by the petition for certiorari, granted in forma pauperis,¹ is whether proceedings in which confessions were utilized, and which culminated in sentences of death upon four young negro men in the State of Florida, failed to afford the safeguard of that due process of law guaranteed by the Fourteenth Amendment.²

1—U. S. —.

² Petitioners Williamson, Woodward and Davis pleaded guilty of murder and petitioner Chambers was found guilty by a jury; all were sentenced to death, and the Supreme Court of Florida affirmed. 111 Fla. 707, 151 So. 499. Upon the allegation that, unknown to the trial judge, the confessions on which the judgments and sentences of death were based were not voluntary and had been obtained by coercion and duress, the State Supreme Court granted leave to present a petition for writ of error coram nobis to the Broward County Circuit Court; 111 Fla. 707, 152 So. 437. The Circuit Court denied the petition without trial of the issues raised by it and the State Supreme Court reversed and ordered the issues submitted to a jury. 117 Fla. 642, 158 So. 153. Upon a verdict adverse to petitioners, the Circuit Court re-affirmed the original judgments and sentences. Again, the State Supreme Court reversed, holding that the issue of force, fear of personal violence and duress had been properly submitted to the jury, but the issue raised by the assignment of error alleging that the confessions and pleas "were not in fact freely and voluntarily made" had not been clearly submitted to the jury. 123 Fla. 734, 167 So. 697. A change of venue, to Palm Beach County, was granted, a jury again found against petitioners and the Broward Circuit Court once more re-affirmed the judgments and sentences of death. The Supreme Court of Florida, one judge dissenting, affirmed, — Fla. —, — So. —. While the petition thus seeks review of the judgments and sentences of death rendered in the Broward Circuit Court and reaffirmed in the Palm Beach Circuit Court, the evidence before us consists solely of the transcript of proceedings (on writ of error coram nobis) in Palm Beach County Court wherein the circumstances surrounding the obtaining of petitioners' alleged confessions were passed on by a jury.

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First. The State of Florida challenges our jurisdiction to look behind the judgments below claiming that the issues of fact upon which petitioners base their claim that due process was denied them have been finally determined because passed upon by a jury. However, use by a State of an improperly obtained confession may constitute a denial of due process of law as guaranteed in the Fourteenth Amendment.³ Since petitioners have seasonably asserted the right under the Federal Constitution to have their guilt or innocence of a capital crime determined without reliance upon confessions obtained by means proscribed by the due process clause of the Fourteenth Amendment; we must determine independently whether petitioners' confessions were so obtained, by review of the facts upon which that issue necessarily turns.⁴

Second. The record shows—

About nine o'clock on the night of Saturday, May 13, 1933, Robert Darcy, an elderly white man, was robbed and murdered in Pompano, Florida, a small town in Broward County about twelve miles from Fort Lauderdale, the County seat. The opinion of the Supreme Court of Florida affirming petitioners' conviction for this crime stated that "It was one of those crimes that induced an enraged community" And, as the dissenting judge pointed out, "The murder and robbery of the elderly Mr. Darcy . . . was a most dastardly and atrocious crime. It naturally aroused great and well deserved indignation."⁵

Between 9:30 and 10 o'clock after the murder, petitioner Charlie Davis was arrested, and within the next twenty-four hours from twenty-five to forty negroes living in the community, including petitioners Williamson, Chambers and Woodward, were arrested without warrants and confined in the Broward County jail, at Fort Lauderdale. On the night of the crime, attempts to trail the murderers by bloodhounds brought J. T. Williams, a convict guard, into the proceedings. From then until confessions were obtained and petitioners were sentenced, he took a prominent part. About 11 P. M. on the following Monday, May 15, the sheriff and Williams

³ *Brown v. Mississippi*, 297 U. S. 278.

⁴ *Pierre v. Louisiana*, 306 U. S. 354, 358; *Norris v. Alabama*, 294 U. S. 587, 590.

⁵ — Fla. —, —.

⁶ *Id.*, —.

took several of the imprisoned negroes, including Williamson and Chambers, to the Dade County jail at Miami. The sheriff testified that they were taken there because he felt a possibility of mob violence and "wanted to give protection to every prisoner in jail." Evidence of petitioners was that on the way to Miami a motorcycle patrolman drew up to the car in which the men were riding and the sheriff "told the cop that he had some negroes that he . . . taking down to Miami to escape a mob." This statement was not denied by the sheriff in his testimony and Williams did not testify at all; Williams apparently has now disappeared. Upon order of Williams, petitioner Williamson was kept in the death cell of the Dade County jail. The prisoners thus spirited to Miami were returned to the Fort Lauderdale jail the next day, Tuesday.

It is clear from the evidence of both the State and petitioners that from Sunday, May 14, to Saturday, May 20, the thirty to forty negro suspects were subjected to questioning and cross questioning (with the exception that several of the suspects were in Dade County jail over one night). From the afternoon of Saturday, May 20, until sunrise of the 21st, petitioners and possibly one or two others underwent persistent and repeated questioning. The Supreme Court of Florida said the questioning "was in progress several days and all night before the confessions were secured" and referred to the last night as an "all night vigil." The sheriff who supervised the procedure of continued interrogation testified that he questioned the prisoners "in the day time all the week," but did not question them during any night before the all night vigil of Saturday, May 20, because after having "questioned them all day . . . [he] was tired." Other evidence of the State was "that the officers of Broward County were in that jail almost continually during the whole week questioning these boys, and other boys, in connection with this" case.

The process of repeated questioning took place in the jailer's quarters on the fourth floor of the jail. During the week following their arrests and until their confessions were finally acceptable to the State's attorney in the early dawn of Sunday, May 21st, petitioners and their fellow prisoners were led one at a time from their cells to the questioning room, quizzed, and returned to their cells to await another turn. So far as appears, the prisoners at no time during the week were permitted to see or confer with counsel

or a single friend or relative. When carried singly from his cell and subjected to questioning, each found himself, a single prisoner, surrounded in a fourth floor jail room by four to ten men, the county sheriff, his deputies, a convict guard, and other white officers and citizens of the community.

The testimony is in conflict as to whether all four petitioners were continually threatened and physically mistreated until they finally, in hopeless desperation and fear of their lives, agreed to confess on Sunday morning just after daylight. Be that as it may, it is certain that by Saturday, May 20th, five days of continued questioning had elicited no confession. Admittedly, a concentration of effort—directed against a small number of prisoners including petitioners—on the part of the questioners, principally the sheriff and Williams, the convict guard, began about 3:30 that Saturday afternoon. From that hour on, with only short intervals for food and rest for the questioners—"They all stayed up all night." "They bring one of them at a time backwards and forwards until they confessed." And Williams was present and participating that night, during the whole of which the jail cook served coffee and sandwiches to the men who "grilled" the prisoners.

Sometime in the early hours of Sunday, the 21st, probably about 2:30 A. M., Woodward apparently "broke"—as one of the State's witnesses put it—after a fifteen or twenty minute period of questioning by Williams, the sheriff and the constable "one right after the other." The State's attorney was awakened at his home, and called to the jail. He came, but was dissatisfied with the confession of Woodward which he took down in writing at that time, and said something like "tear this paper up, that isn't what I want, when you get something worth while call me." This same State's attor-

7 A constable of the community, testifying about this particular incident, said in part:

"Q. Were you there when Mr. Maire [State's Attorney] talked to Walter Woodward the first time he came over there?

"A. Yes, sir.

"Q. Take his confession down in writing?

"A. Yes.

"

"Q. If he made a confession why did you all keep on questioning him about it. As a matter of fact, what he said that time wasn't what you wanted him to say, was it?

"A. It wasn't what he said the last time.

"Q. It wasn't what you wanted him to say, was it?

"A. We didn't think it was all correct.

"

ney conducted the State's case in the circuit court below and also made himself a witness, but did not testify as to why Woodward's first alleged confession was unsatisfactory to him. The sheriff did, however:

"A. No, it wasn't false, part of it was true and part of it wasn't; Mr. Maire [the State's attorney] said there wasn't enough. It wasn't clear enough.

"Q. . . . Was that voluntarily made at that time?

"A. Yes, sir.

"Q. It was voluntarily made that time.

"A. Yes, sir.

"Q. You didn't consider it sufficient?

"A. Mr. Maire.

"Q. Mr. Maire told you that it wasn't sufficient, so you kept on questioning him until the time you got him to make a free and voluntary confession of other matters that he hadn't included in the first?

"A. No, sir, we questioned him there and we caught him in lies.

"Q. Caught all of them telling lies?

"A. Caught every one of them lying to us that night, yes, sir.

"Q. Did you tell them they were lying?

"Q. What part of it did you think wasn't correct. Would you say what he told you there at that time was freely and voluntarily made?

"A. Yes, sir.

"Q. What he freely and voluntarily told you in the way of a confession at that time, it wasn't what you wanted?

"A. It didn't make up like it should.

"Q. What matter didn't make up?

"A. There was some things he told us that couldn't possible be true.

"Q. What did Mr. Maire say about it at that time; did you hear Mr. Maire say at this time 'tear this paper up, that isn't what I want, when you get something worth while call me,' or words to that effect?

"A. Something similar to that.

"Q. That did happen that night?

"A. Yes, sir.

"Q. That was in the presence of Walter Woodward?

"A. Yes,

And petitioner Woodward testified on this subject as follows:

"A. . . . I was taken out several times on the night of the 20th . . . So I still denied it. . . .

"A. He said I had told lies and kept him sitting up all the week and he was tired and if I didn't come across I would never see the sun rise.

"A. . . . then I was taken back to the private cell. . . . and shortly after that they come back, shortly after that, twenty or twenty-five minutes, and bring me out. . . . I [told Williams] if he would send for the State

"A. Yes, sir.

"Q. Just how would you tell them that?

"A. Just like I am talking to you.

"Q. You said 'Jack, you told me a lie'?

"A. Yes, sir."

After one week's constant denial of all guilt, petitioners "broke." Just before sunrise, the State officials got something "worth-while" from petitioners which the State's attorney would "want"; again he was called; he came; in the presence of those who had carried on and witnessed the all night questioning, he caused his questions and petitioners' answers to be stenographically reported. These are the confessions utilized by the State to obtain the judgments upon which petitioners were sentenced to death. No formal charges had been brought before the confessions. Two days thereafter, petitioners were indicted, were arraigned and Williamson

attorney he could take down what I said, I said send for him and I will tell him what I know. So he sent for Mr. Maire some time during Saturday night, must have been around one or two o'clock in the night, it was after midnight, and so he sent for Mr. Maire, I didn't know Mr. Maire then, but I know him now by his face.

"A. Well he come in and said 'this boy got something to tell me' and Captain Williams says 'yes, he is ready to tell you.'

"Mr. Maire had a pen and a book to take down what I told him, which he said had to be on the typewriter, but I didn't see any typewriter, I saw him with a pen and book, so whether it was shorthand or regular writing I don't know, but he took it down with pen. After I told him my story he said it was no good, and he tore it up.

"Q. What was it Mr. Maire said?

"A. He told them it wasn't no good, when they got something out of me he would be back. It was late he had to go back and go to bed.

"A. . . . I wasn't in the cell long before they come back.

"Q. How long was that from the time you was brought into that room until Mr. Maire left there?

"A. Something like two or three hours, I guess, because it was around sunrise when I went into the room.

"Q. Had you slept any that night, Walter?

"A. No, sir. I was walked all night, not continually, but I didn't have no time to sleep except in short spaces of the night.

"Q. When Mr. Maire got there it was after daylight?

"A. Yes, sir.

"Q. Why did you say to them that morning anything after you were brought into the room?

"A. Because I was scared,"

and Woodward pleaded guilty; Chambers and Davis pleaded not guilty. Later the sheriff, accompanied by Williams, informed an attorney who presumably had been appointed to defend Davis that Davis wanted his plea of not guilty withdrawn. This was done, and Davis then pleaded guilty. When Chambers was tried, his conviction rested upon his confession and testimony of the other three confessors. The convict guard and the sheriff "were in the Court room sitting down in a seat." And from arrest until sentenced to death, petitioners were never—either in jail or in court—wholly removed from the constant observation, influence, custody and control of those whose persistent pressure brought about the sunrise confessions.

Third. The scope and operation of the Fourteenth Amendment have been fruitful sources of controversy in our constitutional history.⁸ However, in view of its historical setting and the wrongs which called it into being, the due process provision of the Fourteenth Amendment—just as that in the Fifth—has led few to doubt that it was intended to guarantee procedural standards adequate and appropriate, then and thereafter,⁹ to protect, at all times, people charged with or suspected of crime by those holding positions of power and authority. Tyrannical governments had immemorially utilized dictatorial criminal procedure and punishment to make scape goats of the weak, or of helpless political, religious, or racial minorities and those who differed, who would not conform and who resisted tyranny. The instruments of such governments were in the main, two. Conduct, innocent when engaged in, was subsequently made by fiat criminally punishable without legisla-

⁸ There have been long-continued and constantly recurring differences of opinion as to whether general legislative acts regulating the use of property could be invalidated as violating the due process clause of the Fourteenth Amendment. *Munn v. Illinois*, 94 U. S. 113, 125, dissent 136-154; *Chicago, Milwaukee & St. Paul R. Co. v. Minnesota*, 134 U. S. 418, dissent 461-466. And there has been a current of opinion—which this court has declined to adopt in many previous cases—that the Fourteenth Amendment was intended to make secure against State invasion all the rights, privileges and immunities protected from Federal violation by the Bill of Rights (Amendments I to VIII). See, e. g., *Twining v. New Jersey*, 211 U. S. 78, 98-9, Mr. Justice Harlan, dissenting, 114; *Maxwell v. Dow*, 176 U. S. 581, dissent 606; *O'Neill v. Vt.*, 144 U. S. 323, dissent 361; *Palko v. Conn.*, 302 U. S. 319, 325, 326; *Hague v. O. I. O.*, 307 U. S. 496.

⁹ Cf. *Weeks v. United States*, 217 U. S. 349, 372, 373, and dissent setting out (p. 396) argument of Patrick Henry, 3 Elliot, Debates, 447.

tion. And a liberty loving people won the principle that criminal punishments could not be inflicted save for that which proper legislative action had already by "the law of the land" forbidden when done. But even more was needed. From the popular hatred and abhorrence of illegal confinement, torture and extortion of confessions, of violations of the "law of the land" evolved the fundamental idea that no man's life, liberty or property be forfeited as criminal punishment for violation of that law until there had been a charge fairly made and fairly tried in a public tribunal free of préjudice, passion, excitement and tyrannical power. Thus, as assurance against ancient evils, our country, in order to preserve "the blessings of liberty", wrote into its basic law the requirement, among others, that the forfeiture of the lives, liberties or property of people accused of crime can only follow if procedural safeguards of due process have been obeyed.¹⁰

The determination to preserve an accused's right to procedural due process sprang in large part from knowledge of the historical truth that the rights and liberties of people accused of crime could not be safely entrusted to secret inquisitorial processes. The testimony of centuries, in governments of varying kinds over populations of different races and beliefs, stood as proof that physical and mental torture and coercion had brought about the tragically unjust sacrifices of some who were the noblest and most useful of their generations. The rack, the thumbscrew, the wheel, solitary confinement, protracted questioning and cross questioning, and other ingenious forms of entrapment of the helpless or unpopular had left their wake of mutilated bodies and shattered minds along the way to the cross, the guillotine, the stake and the hangman's

¹⁰ As adopted, the Constitution provided, "The Privilege of the Writ of Habeas Corpus shall not be suspended, unless when in Cases of Rebellion or Invasion the public Safety may require it." (Art. I, Sec. 9.) "No Bill of Attainder or ex post facto Law shall be passed" (*Id.*), "No State shall . . . pass any Bill of Attainder, or ex post facto Law. . . ." (*Id.* Sec. 10), and "No Person shall be convicted of Treason unless on the Testimony of two Witnesses to the same overt Act, or on Confession in open Court" (Art. III, Sec. 3). The Bill of Rights (Amend. I to VIII). Cf. Magna Carta, 1297 (25 Edw. 1.); The Petition of Right, 1627 (3 Car. 1, c. 1.); The Habeas Corpus Act, 1640 (16 Car. 1, c. 10.), An Act for [the Regulating] the Privie Councell and for taking away the Court commonly called the Star Chamber; Stat. (1661) 13 Car. 2, Stat. 1, C. 1 (Treason); The Bill of Rights (1689) (1 Will. & Mar. sess. 2, c. 2.); all collected in "Halsbury's Stat of Eng." (1929) Vol. 3.

noose. And they who have suffered most from secret and dictatorial proceedings have almost always been the poor, the ignorant, the numerically weak, the friendless, and the powerless.¹¹

This requirement—of conforming to fundamental standards of procedure in criminal trials—was made operative against the States by the Fourteenth Amendment. Where one of several accused had limped into the trial court as a result of admitted physical mistreatment inflicted to obtain confessions upon which a jury had returned a verdict of guilty of murder, this Court recently declared, *Brown v. Mississippi*, that "It would be difficult to conceive of methods more revolting to the sense of justice than those taken to procure the confessions of these petitioners, and the use of the confessions thus obtained as the basis for conviction and sentence was a clear denial of due process."¹²

Here, the record develops a sharp conflict upon the issue of physical violence and mistreatment, but shows, without conflict, the drag net methods of arrest on suspicion without warrant, and the protracted questioning and cross questioning of these ignorant young colored tenant farmers by State officers and other white citizens, in a fourth floor jail room, where as prisoners they were without friends, advisers or counselors, and under circumstances calculated to break the strongest nerves and the stoutest resistance. Just as our decision in *Brown v. Mississippi* was based upon the fact that the confessions were the result of compulsion, so in the present case, the admitted practices were such as to justify the statement that "The undisputed facts showed that compulsion was applied."¹³

¹¹ "In all third degree cases, it is remarkable to note that the confessions were taken from 'men of humble station in life and of a comparatively low degree of intelligence, and most of them apparently too poor to employ counsel and too friendless to have any one advise them of their rights.'" Filamor, "Third Degree Confession", 13 Bombay L. J., 339, 346. "That the third degree is especially used against the poor and uninfuential is asserted by several writers, and confirmed by official informants and judicial decisions." IV National Commission On Law Observance and Enforcement, Reports, (1931) Ch. 3, p. 159. Cf. *Morrison v. Calif.*, 291 U. S. 82, 95.

¹² 297 U. S. 278, 236.

¹³ See *Zhang Sung Wan v. United States*, 266 U. S. 1, 16. The dissenting Judge below noted, — Fla. —, —, that, in a prior appeal of this same case, the Supreme Court of Florida had said: "Even if the jury totally disbelieved the testimony of the petitioners, the testimony of Sheriff Walter Clark, and one or two of the other witnesses introduced by the State, was sufficient to show

For five days petitioners were subjected to interrogations culminating in Saturday's (May 20th) all night examination. Over a period of five days they steadily refused to confess and disclaimed any guilt. The very circumstances surrounding their confinement and their questioning without any formal charges having been brought, were such as to fill petitioners with terror and frightful misgivings.¹⁴ Some were practical strangers in the community; three were arrested in a one-room farm tenant house which was their home; the haunting fear of mob violence was around them in an atmosphere charged with excitement and public indignation. From virtually the moment of their arrest until their eventual confessions, they never knew just when any one would be called back to the fourth floor room, and there, surrounded by his accusers and others, interrogated by men who held their very lives—so far as these ignorant petitioners could know—in the balance. The rejection of petitioner Woodward's first "confession", given in the early hours of Sunday morning, because it was found wanting, demonstrates the relentless tenacity which "broke" petitioners' will and rendered them helpless to resist their accusers further. To permit human lives to be forfeited upon confessions thus obtained would make of the constitutional requirement of due process of law a meaningless symbol.

that these confessions were only made after such constantly repeated and persistent questioning and cross-questioning on the part of the officers and one J. T. Williams, a convict guard, at frequent intervals . . . [while] they were in jail, over a period of about a week, and culminating in an all-night questioning of the petitioners separately in succession, throughout practically all of Saturday night, until confessions had been obtained from all of them, when they were all brought into a room in the jailer's quarters at 6:30 on Sunday morning and made their confessions before the state attorney, the officers, said J. T. Williams, and several disinterested outsiders; the confessions, in the form of questions and answers, being taken down by the court reporter, and then type-written.

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"Under the principles laid down in *Nichols v. State*, 90 Fla. 659, 106 So. 124; *Davis v. State*, 90 Fla. 317, 105 So. 843; *Deiterle v. State*, 98 Fla. 732, 124 So. 47; *Mathieu v. State*, 101 Fla. 94, 133 So. 550, these confessions were not legally obtained."

¹⁴ Cf. the statement of the Supreme Court of Arkansas, *Bell v. State*, 180 Ark. 79, 89: "This negro boy was taken, on the day after the discovery of the homicide while he was at his usual work, and placed in jail. He had heard them whipping Swain in the jail; he was taken from the jail to the penitentiary at Little Rock and turned over to the warden, Captain Todhunter, who was requested by the sheriff to question him. This Todhunter proceeded to do day after day, an hour at a time. There Bell was, an ignorant country boy surrounded by all of those things that strike terror to the negro heart; . . . See *Münsterberg, On the Witness Stand*, (1927) 137 et seq.

We are not impressed by the argument that law enforcement methods such as those under review are necessary to uphold our laws.¹⁵ The Constitution proscribes such lawless means irrespective of the end. And this argument flouts the basic principle that all people must stand on an equality before the bar of justice in every American court. Today, as in ages past, we are not without tragic proof that the exalted power of some governments to punish manufactured crime dictatorially is the handmaid of tyranny. Under our constitutional system, courts stand against any winds that blow as havens of refuge for those who might otherwise suffer because they are helpless, weak, outnumbered, or because they are non-conforming victims of prejudice and public excitement. Due process of law, preserved for all by our Constitution, commands that no such practice as that disclosed by this record shall send any accused to his death. No higher duty, no more solemn responsibility, rests upon this Court, than that of translating into living law and maintaining this constitutional shield deliberately planned and inscribed for the benefit of every human being subject to our Constitution—of whatever race, creed or persuasion.

The Supreme Court of Florida was in error and its judgment is

Reversed.

Mr. Justice MURPHY took no part in the consideration or decision of this case.

¹⁵ The police practices here examined are to some degree widespread throughout our country. See Report of Comm. on Lawless Enforcement of the Law (Amer. Bar Ass'n.) 1 Amer. Journ. of Pol. Sci., 575; Note 43 H. L. R. 617; IV National Commission On Law Observance And Enforcement, *supra*, Ch. 2, Sec. 4. Yet our national record for crime detection and criminal law enforcement compares poorly with that of Great Britain where secret interrogation of an accused or suspect is not tolerated. See, Report of Comm. on Lawless Enforcement of the Law, *supra*, 588; 43 H. L. R., *supra*, 618. It has even been suggested that the use of the "third degree" has lowered the esteem in which administration of justice is held by the public and has engendered an attitude of hostility to and unwillingness to cooperate with the police on the part of many people. See, IV National Commission, etc., *supra*, p. 190. And, after scholarly investigation, the conclusion has been reached "that such methods, aside from their brutality, tend in the long run to defeat their own purpose; they encourage inefficiency on the part of the police." Glueck, Crime and Justice, (1936) 76. See IV National Commission, etc., *supra*, 5; cf. 4 Wigmore, Evidence, (2d ed.) § 2251. The requirement that an accused be brought promptly before a magistrate has been sought by some as a solution to the problem of fostering law enforcement without sacrificing the liberties and procedural rights of the individual. 2, Wig., *supra*, § 251, IV National Commission, etc., *supra*, 5.

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